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CONTENTS

Foederis Arca — *Thomas Plassmann, O.F.M.* 1

A Quest of Thoughts. Part I — *John K. Ryan* 7

Diplomatic Relations: The United States and the Papal States — *Alfred C. Rush, C.SS.R.* 12

For the Freedom and Transcendence of the Church — *John Courtney Murray, S.J.* 28

Reply to Father Murray — *Francis J. Connell, C.SS.R.* 49

ANSWERS TO QUESTIONS

Baldachino over Altar 60

Sanctuary Lamp 60

Vesperale 61

Emergency Binating 61

Beatification of Pius X 62

Purifying the Paten 62

(*Contents Continued on Next Page*)

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(*Contents Continued from Previous Page*)

Altar Society 62

Position of Hands at Mass 63

All Souls' Day Indulgence 63

The New Contraceptive Chemical 63

The Use of "Rhythm" 64

BOOK REVIEWS

The Life of Baron Von Hügel, *by Michael De La Bedoyere* 68

The Nature of Law, *by Thomas E. Davitt, S.J.* 75

The Case of Therese Neumann, *by Hilda C. Graef* 76

Spiritual Conferences for Religious Based on the Franciscan Ideal, *by Theodosius Foley* 78

De Corredemptione Beata Virginis Mariae. Disquistio Positiva, *by Juniper B. Carol, O.F.M.* 79

THE NATURE OF LAW

By THOMAS E. DAVITT, S.J., Ph.D.

What is the basis of a citizen's obligations to obey a just law? Does the command or prohibition of legal enactments issue from the will or from the intellect? What is a penal law, and in what respect does it bind under pain of sin?

These questions, which have been mooted among philosophers and theologians for many centuries, are discussed and critically examined in this work by Father Davitt. The author first presents the views of six eminent authorities who favor the opinion that the will is superior to the intellect, beginning with Henry of Ghent and ending with Suarez. Then in six chapters he presents the contentions of those on the side of the intellect as being superior. This group opens with Albert the Great and closes with Bellarmine. These divergent opinions about the role of the will and intellect in the theory of law lead to far-reaching and opposite conclusions.

In each instance the author is at pains to set forth the conclusions with regard to penal law, to what extent it obliges in conscience. As with many other basic concepts, the one that concerns the nature of law has manifold practical consequences. **$4.00**

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FOEDERIS ARCA

It may be difficult to determine just what the Litany of Loreto means to convey by invoking our Blessed Lady as "the Ark of the Covenant." The fact alone that Mary's sacred bosom held enshrined the fulfilment of the Old Covenant through the Incarnation of the divine Testator of the New, would hardly seem adequately to comprise the full significance of the term. Instinctively we look for a book, a scroll or a writ of some kind, as we turn to the command given by God to Moses: "And thou shalt put in the ark the testimony which I will give thee" (*Exod.* 25:16). In fact the Pentateuch is witness that the "Ark of the Covenant" was made to hold the "Book of the Covenant" (*Num.* 10:13). May we not then follow up this lead to determine what specific relationship the Mother of God may have to the Ark of the Covenant as the depository of the Law, Old and New? Since the recent plentiful and delightful output on Marian and Mariological studies has fairly exhausted the glorious crown of the privileges of the Mother of God, it seems timely to consider her Immaculate Heart under another aspect, namely, under the title of Keeper of the Deposit of Faith, both as to Sacred Scripture and Apostolic Tradition.

Without attempting to submit this suggestion to a technical and theological analysis, one feels that even a cursory survey of the subject may lead to holy and wholesome considerations and meditations. Granted that theologians, scripture scholars and historians have thoroughly explored the field and have gathered their full sheaves safely into the barn of explicit doctrine, who would gainsay that there are always left in their track a few "handfuls of leavings," which Ruth the Moabitess may do well to gather up, if only for the edification of a few.

As children we used to listen with delight to the story that St. Luke had sat at the feet of the Blessed Mother to paint her picture. Though this story has been relegated to the realm of legend, it does remain a fact that all the great masters had to borrow their conceptions of the Madonna from St. Luke, not indeed from his canvas, but from the first two chapters of his Gospel—the most beautiful literary composition in the possession of man. There is no denying that these two chapters show evidence of a woman's touch, not to say a mother's touch, and that they reveal a knowledge so

intimate and personal as only an immediate eyewitness could have furnished. Hence we fully agree with Fr. Straeter's conclusion that both the accounts of the Infancy of Jesus, the one in St. Luke, the other in St. Matthew, can only stem from the vivid, retentive and loving memory of the Blessed Mother. Adapting the story to the scope of their gospels, St. Matthew wrote in a staid, matter-of-fact style, whereas St. Luke kept all the little though significant details and touches that invariably and delightfully reveal a mother's feelings and faith.

Nor is it necessary to assume that the Blessed Mother was St. Luke's immediate informant. It is certain that after the sad hour on Calvary St. John, the beloved disciple "took her into his home" (*John* 19:27), and that it may be safely inferred that he, at a later period, entrusted to St. Luke, with whom he cherished an abiding friendship, the unforgettable story just as he had often received it from the Mother's sacred lips. St. Luke, indeed, would have belied his avowed desire for historical accuracy had he overlooked or underrated this unique and most valuable source of information. Careful and critical writer that he was, he unreservedly appeals to what those "who from the beginning were eyewitnesses and ministers of the word have handed down to us" (*Luke* 1:2), and then determines "after following up all things carefully from the very first to write . . . an orderly account" (*Luke* 1:3). Whether we view his inspired account naturally or supernaturally, even the most exacting critic must admit that the third evangelist, though he does not cite chapters, verses or any other technical details of our modern critical apparatus, quotes an unassailable source when he writes, naively but positively, "But Mary kept in mind all these things, pondering them in her heart" (*Luke* 2:19), and again: "And his mother kept all these things carefully in her heart" (*Luke* 2:51). The last sentence practically concludes Mary's account, even though her authorship is modestly withheld, as the true source of what precedes. Surely, if by approved usage, Mary Magdalen is accorded the title "Apostola Apostolorum," because she was the first to announce the Resurrection, we should properly insert in the Litany of Loreto, for Mary's sake, her well-merited distinction, "Regina Evangelistarum, Ora pro nobis."

But Mary's influence upon the making and understanding of Sacred Scripture does not end here. Nor should we be baffled, in the attempt of tracing such influence, by any *argumentum ex silen-*

tio. Knowing the Mother of Jesus as we do, both from historical data and from our devotion which is solidly based upon them, we readily find reason for her reverential silence and modest reserve: first, her whole personality as reflected on the pages of Scripture bespeaks an attitude of humble, virginal retirement from the public eye; secondly, the few instances in which she becomes articulate invariably reveal the firm and abiding will that all glory must go to God the Father above and to her Divine Son who lived and moved in her presence. It is no wild guess that this attitude of the Mother of God was carried over, consciously or unconsciously, into the early Christian centuries, and that it was largely responsible for the striking phenomenon that her own exalted privileges were veiled in hallowed *silentium* until after Christological controversies had subsided.

Be that as it may, St. Bernardine of Siena sets forth with inimitable eloquence, and no doubt with a roguish twinkle of his eye before the garrulous ladies of his home town, as well as elsewhere that Mary spoke only seven times. Surely she spoke oftener, though her words are not recorded. Hence, in order to gain a more comprehensive idea of what passed in her heart, we should devoutly study these seven words, which are replete with heavenly wisdom, and carefully observe the demeanor, actions and attitudes of the "Virgo prudens."

An interesting chapter might be written on the "scientia Mariae." Undoubtedly her understanding of the mysteries that surround her was most profound and penetrating. Meanwhile, as she increased in grace her knowledge increased apace. The glorious *Magnificat* is the highlight of her spiritual experience, the theme song, as it were, of the Mystery of Redemption. Patterned after the Canticle of Anna (*I Kings* 2: 1-11), it rises to heights hitherto unknown, and in a bold sweep soars far beyond the noticeably localized sentiments of the Mother of Samuel. As Origen remarks, Mary dares, what no creature dared before, namely, to magnify the infinite Majesty of the Almighty. In a few verses she focuses the revelations of old, the infinite power, mercy and fidelity of God, and in letters of gold she writes the Redemption of her people upon the venerable palimpsest of the Old Law. The last sentence might as well come from the lips of an inspired Doctor of Israel: "Even as he spoke to our Fathers—to Abraham, and his posterity forever" (*Luke* 46: 45). Here Mary truly reveals herself as the "Foederis Arca."

Christians will forever regret that so little has come down to us from the thirty years of the hidden life at little Nazareth on the hill. It is proper to assume that many long hours were spent at reading and meditating upon the pages of Holy Scripture. And while "Jesus advanced in wisdom and age and grace before God and men" (*Luke* 2:52), Mary and Joseph sat by as docile learners who no doubt frequently "did not understand the word that he spoke to them" (*Luke* 2:50). Hence His child-like rebuke to them in the temple: "Did you not know that I must be about my father's business?" (*Luke* 2:49). The implication is that they should have known after all He had taught them, but Mary's motherly concern had made her speak with such anxiety. There is a delightful note of plain and simple directness in the conversations between Mary and her divine Son which in our sophisticated age is often taken amiss. St. John never uses the name Mary, but always refers to her with delicate attention as "the Mother of Jesus." To him the title "Woman," when used by the Master, carries a note of dignity, in the sense of "Lady," both at Cana and on Calvary. The fact that we have not found a more appropriate translation is due to the poverty of our language, not to the lack of respect on the part of the speaker. Similarly we should understand the much belabored expression at Cana: "Quid mihi et tibi, mulier?" It is nothing but a familiar colloquialism, intimate and direct, implying neither feeling nor disrespect, but merely indicating an attitude, a procedure. Like the remark of the boy Jesus "How is it that you sought me," the expression at Cana might be rendered informally thus: "Never mind, Lady, I shall tend to that; but my time has not come yet." His mother was completely set at ease, though she had no idea how it was to happen; hence she confidently told, or rather whispered, to the servants: "Do whatever he tells you." Mary's prime concern was that her Son "manifest his glory, and his disciples believed in him" (*John* 2:1-11). Thus she waited, learned and loved for thirty-three long years, until we meet her "standing by the Cross of Jesus" (*John* 19:25) —the Valiant Woman—the true *Sedes Sapientiae*.

St. Luke records five words of Mary, St. John only two, namely, in the aforesaid conversation at Cana. St. John's relationship to Mary is one of reverent and dutiful reserve. Surely the disciples and the holy women frequently called at his home; but the "Apostle whom Jesus loved" and whom He had appointed as her guardian

never allows us even a glimpse of what transpired under his roof. With what avidity theologians would pour over his lines if he had only been more specific when, in glowing terms, he describes "the woman clothed with the sun, and the moon was under her feet, and upon her head a crown of twelve stars" (*Apoc.* 12:1). But while Mother Church in her Liturgy and the mystics in their writings are exerting themselves in divining the application, we shall probably have to wait for the true sense until the "perpetual light shines upon us." Nonetheless, we may safely assume that many of Mary's thoughts and reminiscences slipped into St. John's pen as he wrote his Gospel, his Epistles and the Apocalypse. Apart from the inspired character of his pen, his intimate contact with Mary may have, in a measure, influenced the sublime tone, theme and theology of the Fourth Gospel as compared with the Synoptists.

Mary's influence upon apostolic tradition is a matter of conjecture rather than direct inference. However, there is the standing, undeniable witness that "Mary kept in mind all these things, pondering them in her heart" (*Luke* 2:19). It would be quite appropriate that when we depict the four Evangelists in their proper symbols, we add the symbol of a heart, to represent the part Mary had in transmitting to posterity both the written and oral word. St. Luke graphically introduces Mary when after the Ascension he makes the eleven march two by two in line to "mount to the upper room," where "all these with one mind continued steadfastly in prayer with the women and Mary, the mother of Jesus, and with his brethren" (*Acts* 1:13-14).

It will never do to rivet our minds on this curt and staid description of the Evangelist. We should reverently raise the curtain and remember that, regardless of their sanctity, these were human beings, in flesh and blood, with their varying temperaments, weaknesses, and peculiar characteristics. We know them from the Gospel story and the Holy Spirit had not yet descended upon them. And even if He had, who would be bold enough to say that the grace of God should have substituted the purely angelic for what both God and men find so attractively, if not amusingly human in them. The halo of sanctity does not cover up what God has made. Even St. Paul, after solemnly declaring that "star differs from star in glory" (*I Cor.* 15:41), goes on to boast almost in the same breath "of the things that concern my weakness" (*II Cor.* 11:30).

There was Peter, sanguine, impetuous, forward as ever. Well could he afford it, for he was now in full charge. Then there was James, "the son of thunder," and there were meddlesome Andrew, gentle Philip, wary Thomas, gruff Bartholomew and pensive John. And the women! Though they were holy, can we imagine that they spent all their time singing psalms and reading the sapiential books? As yet there were no rules on social etiquette; nor had the Sacred Congregation of Rites issued any formal directives; neither was there posted a monastic sign with "Silentium" written on it. If only a small part of the conversation in that upper room had come down to us! Perhaps the last line of St. John's Gospel was prompted by a scene such as this: "There are, however, many other things that Jesus did; but if every one of these should be written, not even the world itself, I think, would hold the books that would have to be written. Amen" (*John* 21:25).

Who will gainsay that the central attraction was Mary, the Mother of Jesus, at this as well as at other meetings of the disciples? Naturally, they would plead with her, and over and over again she told the story of Bethlehem, and Egypt and Nazareth. Who would restrain them from seeking to gather "the fragments that were left," to learn more and more of the sayings and deeds of the Lord Jesus who was taken up into heaven and "who shall come in the same way as you have seen him going up to heaven" (*Acts* 1:11)? As the Venerable John Duns Scotus wisely remarks, God wanted Sacred Scripture to be what it is. But God also provided the sacred channel of tradition to forward these truths, under the guidance of the Holy Spirit, which are not contained in Holy Writ. Is it not logical to call the upper room the cradle of this tradition? And furthermore, as Mary had watched over the cradle in Bethlehem, even so she now watched over the birth of the deposit of Faith as it was about to proceed on its forward march through the centuries. As St. Bonaventure says: "Sicut Verbum Incarnatum ita Verbum Inspiratum." Mary's Immaculate Heart—the Ark of the Covenant.

THOMAS PLASSMANN, O.F.M.

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A QUEST OF THOUGHTS

PART I

LOSS OF FAITH

The severest troubles that individual men endure arise because they lack faith, have given up their faith, or do not live in accordance with it. So too in the modern world. Our troubles are due to the apostasy of the western nations. Whole nations have been deprived of the faith and others have not lived up to it.

We use the phrase "to lose the faith," but it is not an accurate description of what takes place. When I lose a thing, I do so indeliberately and unconsciously. But the faith does not go in that way. A man who has the faith cannot lose it; he must deliberately put it out of his life. Nor can a people lose the faith. Individual men and women can apostasize and, if they are powerful enough, they can destroy religion in those within their grasp. It takes only a generation to rob the great mass of men of their religion. Witness some of the nations of Europe. But behind the irreligion of great masses of men is the deliberate apostasy of great leaders of thought and action and the indifference and inertia of others.

TOTALITARIAN SACRIFICE

How many lives have been destroyed since 1914? What sacrifices have been endured! Families are torn asunder. The father must leave his wife and children to serve in the army. Young people must change their plans for life and be ready to give up life itself at the command of the state. The whole population must give up food, clothing, comfort, income, and much else for the needs and demands of the state.

If the Church asks men to give up meat for a few days a year or to eat less at certain times, what complaints do we raise. If men and women are asked to be chaste and continent, what howls of derision arise. If the Church says that a man must be willing to lay down his life rather than to do evil, what protests are made.

Men would not freely discipline themselves by a little fasting and self-denial, and the result has been such regimentation, such hardship, and such degradation as mankind never knew before.

Men would not sacrifice themselves or their possessions to pre-

serve the truth that gave them life and made them free. But millions have had to sacrifice all these, and much else besides, for the sake of error and evil. We have seen such a holocaust of human lives and such slavery as the world has never dreamed of. And the end is not yet: education for slavery and death is now only beginning.

"Millions of martyrs" is the demand of the modern state and in large measure these martyrs will suffer without merit and without avail.

TWO PHILOSOPHERS OF ATHEISM

Three centuries ago John Smith, the Cambridge Platonist, wrote that "the world was never so degenerated anywhere, as to suffer atheism to appear in public view."

What would he say of our world, and what would he think to be the great cause of the atheism that our world not only suffers to appear but even forces upon men?

Plato (*Laws,* 8856) distinguishes three errors of thought and action with regard to God:

1. Total atheism, which, he says, belongs to men only in their old age.
2. Partial atheism, which denies God's providence.
3. Superstition, which thinks to trick God into supporting injustice.

Plato saw three errors clearly and thought deeply upon them. As life goes on men become more and more selfish and cynical. They are in constant danger of losing the faith, the hope, and the charity of their childhood and youth. Yet it is only by preserving a spiritual childhood and the qualities of youth that men can be saved. "Unless a man be born again of water and the Holy Ghost. . . ." "Unless ye become as little children, ye shall not enter into the kingdom of heaven." It is in the old age of the world that atheism has come upon us. We are the ancients, as Francis Bacon said, and it is a sign of our senility and decay that atheists rule so vast a part of mankind.

WAR GUILT AND INNOCENCE COMPLEX

Many young people are reported as being resentful at being drafted into military service. They hold that they are merely vic-

tims; it is not they but their elders who are responsible for this struggle, yet they are the ones whose years, labors, life works and even life itself must be sacrificed. They resent fighting their fathers' wars.

There are many things that can be said about this unfortunate attitude. It may be said that war today is no different from other wars, in that the decision for war is always made by older men while the brunt of the fighting is done by younger men.

It may be said, too, that no matter how the war started and no matter how badly the older generation bungled, the duty of serving the nation in time of danger still remains. Patriotism was a virtue during the World Wars just as it was in 1861 and in 1776. The young men of today can serve and save their country perhaps more fully and more really than even the young men of the past.

But the most important thing to be said about this resentment is that it is an expression of an almost universal error. This error is found in the lack of a perception of personal responsibility. It may be called an "innocence-complex." It is the refusal to admit guilt or culpability of any sort. Thus, within the nation the younger generation blames the older generation. Youth holds itself to be without shame or responsibility of any sort in the present catastrophe. So also a nation holds itself guiltless. All responsibility is thrown upon other nations, other groups, other doctrines. Yet all are guilty in some way and all have some responsibility. Certainly the guilt and responsibility of the deliberate warmakers is far greater than that of their victims. But even these victims have their share of fault in producing the evil situation that we know.

Do we say then that the younger generation in America and elsewhere is responsible in some way for this continuing warfare of our time? Yes, because this younger generation that must bear the burden of the war, that must be "victimized" by the war, is a part of the human race. In a sense, it is our entire race that is guilty and each member of the race is in fact guilty in part. When nations, races, groups, or classes refuse to admit any guilt and responsibility and when they see themselves only as "innocent victims," they make a gross and disastrous error.

They repudiate the unity and solidarity of the human race. They deny the doctrine of original sin. They make a false interpretation of human nature. This interpretation errs both as to the natural and

as to the supernatural factors in man, for it is in effect both bad theology and bad psychology. Man's nature is wonderfully and fearfully made, but it is a fallen nature. To forget this fact of man's fall has been a main source of error and trouble in the modern world.

Modern war is the greatest and most vivid manifestation of the evil at work in the modern world. Its growth and spread in horror and destructive power have not been the result solely of individual men in one single nation or another. They have been made possible and real by a universal acceptance on the part of men, young and old, of the aims and methods of modern militarism.

A QUESTION

It has been asked what is the difference between throwing babies into the fire and throwing fire on babies. The cynical answer is that it depends on whose fire and whose babies. The true answer is that it is murder to throw babies into a fire, while it may or may not be murder to throw fire on babies.

THE NAME OF CHRIST

Voltaire is reported to have said of Jesus Christ, "I pray you, never let me hear that man's name again."

It is this that powerful men, powerful groups, and powerful governments are today saying of God and the Son of God. They are powerful in the world and they will do vast evil to mankind before the evil that is in them and that is spread by them brings about their downfall. Meanwhile, they are determined that the name of God or the name of Jesus Christ will not be written in honor in the textbooks in our schools or in the documents that are to rule the world.

CRITICISM

Some men enjoy such prestige and have such a following that anyone who speaks ill of them or opposes them or is opposed by them is forthwith judged a scoundrel or worse. Greene has suffered because he scoffed at Shakespeare. Pope is sometimes condemned because he impaled Addison upon his pen. Manning must have been wrong in his relations with Newman, and his great funeral oration over Newman, must be a confession of how wrong he was. Such seems to be the way things often work out.

May it not be that Greene had something on his side, that Addison was precisely what Pope described him to be, and that Manning was a greater man, although far less as a thinker and artist, than Newman was?

THE MODERN SCENE

What the nations need is a *renovatio in capite et membris,* an interior change for the better in the heads of states and in the great mass of individual men and women. Which of the secular leaders offers any moral program or practices anything better than the principles of expediency and power?

What results from such leadership—from the policies and deeds of modern statesmen almost without exception—is a *dehonestamentum humani generis*: a degradation of the human race without parallel in human history.

The Nazis destroy Lidice; the British bombard and level a town in Java because allied flyers were slain there; Jews in Palestine wipe out an Arab village.

The Nazis sterilized their victims in Dachau and Belsen, and we do the same thing to our own people, "the unfit," as we call them, using a Nazi name.

A generation ago, we would have thought it incredible for anyone to advocate slavery. Today the idea and fact of slavery are accepted and even applauded.

Millions of men and women and children are slain in war, murdered in cold blood, deliberately starved to death, or let die of hunger and cold.

Other millions are dispossessed, hounded out of their homes, and driven into exile and slavery. Such an orgy of rape goes on as the nations have never known.

These are the things that the Stalins and Hitlers have deliberately ordered and that other secular leaders have permitted and condoned.

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DIPLOMATIC RELATIONS: THE UNITED STATES AND THE PAPAL STATES

We have lived in an era in which two Presidents have sent a personal representative to the Holy Father. Recently, President Truman announced the nomination of General Mark Clark as Ambassador to the Vatican. The appointment is now a controversial subject; in January it will come up for discussion in Congress. At a time like this it is worthwhile to review the past relations between the United States and the Papal States. These pages are meant to be factual in nature; to be more precise, they are a synthesis or digest of facts, facts which are, to a large degree, based on the researches of Dr. Leo Francis Stock who is the authority, *facile princeps,* on the relations between the United States and the Papal States.

In 1784, when the American nation was still feeling growing pains and when the Papal States were over a thousand years old,[1] the Papacy made a friendly gesture to this country. The Papal Nuncio at Paris wrote to the American peace commissioners who were still in that city after signing the Treaty of Paris and informed them that the Papal Government had agreed to open the ports of the States of the Church to the vessels of the new republic.[2] No action was taken on this friendly gesture and it was not until the next decade that contacts were established between the United States and the Papal States.

CONSULAR RELATIONS: 1797-1870

The first contacts between this country and the Papal States were in the form of consular relations. Consular posts are set up to encourage and protect trade between two countries and to assist the citizens of one's country who are residing or travelling abroad.[3] It was in 1797 that an Italian, Giovanni Sartori, wrote to Robert

[1] The origin of the Papal States goes back to the middle of the eighth century. Cf. A. Fliche-V. Martin, *Histoire de l'église* (Paris, 1947), V, 423-30; VI, 2 ff.

[2] L. Stock, *Consular Relations between the United States and the Papal States, Instructions and Despatches* (Washington, D. C., 1945), p. xxiii.

[3] *Ibid.*, pp. xxiii, xxxiii; Stock, "American Consuls to the Papal States, 1797-1870," *Catholic Historical Review,* XV (1929-30), 242.

Morris and pointed out that it would be to the interests of the United States to have a consul in Rome to protect trade between the two countries and to help Americans visiting Italy. He offered himself for the position of first consul. He received the appointment on June 26, 1797 and thus the United States sent its first consul to the Papal States.[4] From 1797 until the fall of the Papal States in 1870 the United States had eleven consuls in Rome. The names of these consuls and their tenure of office are as follows:

Giovanni Battista Sartori (June 26, 1797–March 3, 1823)
Felix Cicognani (March 3, 1823–Jan. 9, 1837)
George W. Greene (Jan. 9, 1837–July 25, 1845)
Nicholas Brown (July 26, 1845–May 29, 1849)
William Carroll Sanders (May 29, 1849–Sept. 10, 1856)
Daniel LeRoy (Sept. 10, 1856–Aug. 28, 1858)
Horatio de V. Glentworth (Aug. 26, 1858–Aug. 8, 1861)
William D. Howells (Aug. 8–Sept. 13, 1861)
William J. Stillman (Sept. 6, 1861–Feb. 6, 1865)
Edwin C. Cushman (Feb. 6, 1865–April 16, 1869)
David Maitland Armstrong (April 16, 1869–Sept. 20, 1870).

In the above list it will be noted that the first two are Italian names. The first two consuls representing the United States at Rome were not American citizens. This situation continued until 1837. With the number of American visitors to Rome on the increase, and with the fees accruing from the post mounting up by reason of the increase in visitors, there was a demand for a consul who was an American citizen. It was then that George W. Greene was named consul and he had the happiness of reporting: "But the Americans resident here met me with the greatest cordiality & seem to consider it as a matter of general congratulation that they have at length a fellow citizen among them to represent their feelings & advocate their wants with his Holiness and ministers."[5] Curiously enough, the cordiality and congratulations died out. Complaints were rife that the American was charging higher fees than his predecessor and other consuls. There was dissatisfaction on other scores also and eventually he resigned.[6] However, com-

[4] Stock, *Consular Relations*, pp. xxiii, 1-10; T. Meehan, "Our First Consul to the Papal Court," *America*, Jan. 20, 1940.

[5] George W. Greene to John Forsyth, Nov. 6, 1837 (Stock, *Consular Relations*, p. 58).

[6] Stock, *Catholic Historical Review*, XV, 236.

mencing with the appointment of Greene as consul, the American consulate at Rome was held by American citizens.

The Holy Father went out of his way to show special consideration to our consuls, and they in turn were most sanguine in praise of the reception given them. Speaking of his reception at Rome, Cicognani writes:

> Indeed, I owe it to justice to say that no minister of any sovereign in Europe could have been received with greater distinction than I was on that occasion. This statement will no doubt be acceptable to His Excellency the President as well as to yourself, proving how elevated is the ground on which the Government of the United States stands in the eyes of that of the Holy See.[7]

In his report of the special privileges of the American consul, Greene notes:

> Since I last had the honor to write to you I have had several audiences of his Holiness and presented several of our countrymen *in person*. This circumstance alone, of my being allowed a privilege, which strictly speaking, belongs only to the higher members of the diplomatic body, & which, even here, is not granted to any other of my rank, is a sufficient proof of the feelings of this government towards that of the U. S.[8]

Even Brown, who was not overtly enthusiastic for things Papal, reports:

> Our consul at Rome on occasion of all Church festivals at which the Pope officiates in person is admitted in like manner as diplomatic funtionaries both Catholic & Protestant; & the same courtesy is observed on all occasions of public or private presentations to his Holiness; a courtesy not extended to any other consul resident in Rome.[9]

The American consuls at Rome discharged their duties well. In the diplomatic sphere only one of them caused this government any embarrassment and that was Brown. Despite the fact that he was the American consul to the Papal Government at Rome, he ardently espoused the short-lived Roman Republic of 1849 and was certain that the Papacy is "fallen, morally fallen, forever." His indiscretions were given no approval by his home government

[7] Felix Cicognani to Martin Van Buren, Mar. 10, 1830 (Stock, *Consular Relations*, p. 30).

[8] George W. Greene to John Forsyth, Feb. 20, 1838 (*ibid.*, p. 60).

[9] Nicholas Brown to James Buchanan, April 24, 1847 (*ibid.*, p. 95).

which, embarrassed by his conduct, removed him from the consulate.[10] To sum up the consular relations between the United States and the Papal States, it can be said, in the words of Dr. Stock, that the relations were carried on in a spirit of mutual friendship and respect, and that the consuls sent by the United States were men of ability and tolerance.[11]

Passing over other cities in which the United States had consuls or vice-consuls, a word should be added about Papal General Consuls to the United States. The first to represent the Papal States in this country was Count Ferdinand Lucchesi. He resided in Washington and held office from May 30, 1826 until Sept. 21, 1829. He was succeeded by John B. Sartori who resided in Trenton and who acted as consul from Sept. 21, 1829 until Dec. 15, 1841. The third Papal consul, Daniel J. Desmond, had his residence in Philadelphia and held office from Dec. 15, 1841 until Nov. 14, 1850. The fourth incumbent was Louis B. Binsse. It was Archbishop Hughes who recommended Binsse for the post and who suggested that the office be transferred to New York. His tenure of office began on Nov. 14, 1850. No date can be given when it ended for the consulate was never officially closed.[12]

FORMAL DIPLOMATIC RELATIONS 1848-68

For close on to fifty years America had had consular relations with the Papal States when a movement got under way to have more formal diplomatic relations with the Papal Government. In 1846 Pius IX was elected Pope and at the start of his pontificate he did everything in his power to go along with the demands of the liberals and nationalists. Among the reforms introduced by Pius are the following: the proclamation of a general amnesty, the formation of a Consultive Council of State, including lay representatives of Rome and the provinces, the formation of a Cabinet with Rossi, a moderate liberal, as Prime Minister, the reduction of tariffs, the restriction of monopolies, reform in the censorship of

[10] Stock, *ibid.*, p. xxviii. On this period of Italian history, cf. H. Marraro, "Unpublished American Documents on the Roman Republic of 1849," *Catholic Historical Review*, XXVIII (1942-43), 459-90.

[11] Stock, *Catholic Historical Review*, XV, 250.

[12] Stock, *Consular Relations*, pp. xxxv-xxxix, 387-437. More will be found on the Papal Consul in New York at the end of the article.

the press.[13] The American press was beside itself in proclaiming this great champion of liberalism, democracy, and reform. The New York *Herald* thought that the President should send to the Senate his nomination of either a *chargé d'affaires* or an ambassador. They expressed their preference for the latter "as more respectful to the Pope, and more suitable to our dignity and greatness as a people." The *Tribune,* under Horace Greely, advocated a public demonstration. The demonstration was held in Broadway Tabernacle, New York, on Nov. 29, 1847 where it was resolved that an address, presented by Horace Greely, be sent to the Secretary of State to be forwarded to Rome. The address was meant to show Pius IX the regard they had for his enlightened and liberal policy.[14]

While this campaign was going on in the press, many Americans living in Rome voiced their hope that President Polk would send a representative to the Holy See. Furthermore, word was received in this country that high officials in the Papal government and even the Pope himself expressed a desire that diplomatic relations be established between the United States and the Papal States.[15]

On Dec. 7, 1847 in a message to Congress that is crammed with sundry and multitudinous matters, President Polk sandwiched in a little item which reads:

> The Secretary of State has submitted an estimate to defray the expense of opening diplomatic relations with the Papal States. The interesting political events now in progress in these States, as well as just regard to our commercial interests, have, in my opinion, rendered such a measure highly expedient.[16]

From the President the recommendation went to Congress. In the House, although the opposition was in the minority, it was decidedly bitter. The President was accused of trying to win over the

[13] H. Leclercq, "A Chronicle of Social and Political Events from 1640 to 1914," in E. Eyre, *European Civilization,* VI (London, 1937), 547; R. Corrigan, *The Church and the Nineteenth Century* (Milwaukee, 1938), p. 53.

[14] Sister Loretta Clare Feiertag, *American Public Opinion on the Diplomatic Relations between the United States and the Papal States* (Washington, D. C., 1933), pp. 5-14.

[15] L. Stock, *United States Ministers to the Papal States, Instructions and Despatches, 1848-1868* (Washington, D. C., 1933), p. xxii.

[16] J. Richardson, *A Compilation of the Messages and Papers of the Presidents of the United States,* IV (1907), 551.

Catholic votes; it was asserted that this was a purely religious matter, that our commercial relations did not warrant such an appointment. Discussion centered around the question whether we should have a *chargé d'affaires* or a minister. The debate in the House, from the viewpoint of the opposition, is noted for the protracted, bitter and bigoted speech in which Lewis C. Levin of Pennsylvania denounced the resolution. When the debating was over, the House voted 137 to 15 to send a *chargé d'affaires* to Rome. Although George E. Baxter of North Carolina, a leader of the opposition in the Senate, claimed that the nomination was a strategy on the part of the administration to win the Catholic vote, it must be stated that the debate in the Senate was dignified and objective. Religious considerations played a relatively minor role. When the vote was taken on the matter, the Senate voted 36 to 7 in favor of the resolution.[17] The numbers speak for themselves and show how big a majority there was in favor of opening diplomatic relations with the Papal States.

After the measure had been cleared in Congress, President Polk named Jacob L. Martin as *chargé d'affaires* of the United States to the Papal States and thus it was that in 1848 this country had its first diplomatic representative at Rome. Because this is the first appointment of this kind it is interesting to note the principles laid down for guiding the conduct of the American *chargé d'affaires*. In a letter to Martin that deals with his "highly honorable and important position," our Secretary of State says:

> There is one consideration which you ought always to keep in view in your intercourse with the Papal authorities. Most, if not all the Governments which have Diplomatic Representatives at Rome are connected with the Pope as the head of the Catholic Church. In this respect the Government of the United States occupies an entirely different position. It possesses no power whatever over the question of religion. All denominations of Christians stand on the same footing in this coun-

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[17] Feiertag, *American Public Opinion*, pp. 16-26. The debates on the question are found in the *Congressional Globe*, XVII (13th Congress, 1st Session), 57, 418, 430, 439-45, 476-77, 509, 514, 520. The bitter speech of Levin begins on p. 418. The appendix of the same volume of the *Congressional Globe* contains matter on pp. 403-10, 437-45. Cf. L. Stock, "The United States at the Court of Pius IX," Catholic Historical Review, IX (1923-33), 104, n. 5.

try,—and every man enjoys the inestimable right of worshiping his God according to the dictates of his own conscience. Your efforts therefore, will be devoted exclusively to the cultivation of the most friendly civil relations with the Papal Government, and to the extension of the commerce between these two countries. You will carefully avoid even the appearance of interfering in ecclesiastical questions, whether these relate to the United States or any other portion of the world. It might be proper, should you deem it advisable, to make these views known, on some suitable occasion, to the Papal Government; so that there may be no mistake or misunderstanding on this subject.[18]

While giving the orders sent to our first *chargé d'affaires*, some indication of his reaction to his duties are in order. Describing the reception given him by Pius IX, he writes:

On the same day, I had the honor of being received by His Holiness, Pius IX. His reception was cordial in a high degree. He took me by the hand, both coming and going, and assured me of the great pleasure which it gave him to enter into diplomatic relations with a country for which he entertained so high a regard. He spoke with warm satisfaction of the state of the Catholic church in the United States, and of the character of its clergy, several of whom, he observed, he had the gratification of knowing personally. . . .

The interview was to me, a very pleasant one, and impressed me vividly with that benevolence of character and gentleness of demeanour for which Pius IX is proverbial.[19]

The tragedy of Martin is that his period in office was so short. He died in Rome on Aug. 26, 1848 of a stroke of apoplexy. During his short tenure of office, however, he wrote reports that show a deep insight into the Italian situation and which also manifest a remarkable regard for the Papacy. In reporting his death the papers were quick to point out his outstanding qualities, and the loss that his death meant to this country.[20]

It would take us too far afield to go through the events that came up during the years when this country had representatives at the Papal States. It is sufficient to name the various men who held office, and then point out some of the more interesting and impor-

[18] James Buchanan to Jacob L. Martin, April 5, 1848 (Stock, *United States Ministers*, pp. 2 f.).

[19] Jacob L. Martin to James Buchanan, Aug. 20, 1848 (*ibid.*, pp. 9 f.).

[20] Feiertag, *American Public Opinion*, p. 40.

tant events of these years. The list of those who represented us at Rome is as follows:

Jacob L. Martin (April 1–Aug. 26, 1848)
Lewis Cass, Jr. (Jan. 6, 1849–Nov. 27, 1858)
John P. Stockton (June 18, 1858–June 6, 1861)
Rufus King (appointed but did not serve at this time)[21]
Alexander W. Randall (Aug. 6, 1861–Aug. 11, 1862)
Richard M. Blatchford (Aug. 11, 1862–Oct. 6, 1863)
Rufus King (Oct. 15, 1863–Jan. 1, 1868).

The first thing to report is that there was a change in the status of our representative at the Papal States. At first our representative was a *chargé d'affaires*. During the tenure of Lewis Cass, Jr. he was raised from *chargé d'affaires* to Minister Resident. This was stipulated by an act of Congress of 1853.[22] In November, 1854, Cass presented his letter of credence, accrediting him as Minister Resident of the United States to the Papal States. At that time Pius IX showed him great cordiality and expressed the desire to maintain the friendly relations existing between the two Governments.[23]

In the dispatches of our Ministers at Rome we read of the promulgation of the dogma of the Immaculate Conception, the mission of Cardinal Bedini, the relation of Rome with various powers. However, the dispatches which are of prime importance from the diplomatic viewpoint are those covering two periods of stress and crisis, namely, the Civil War in this country and the drive against the Papal Government in Italy. These were periods calling for the utmost in the way of diplomacy, tact, and prudence from a diplomatic representative and from the Governments which sent him and to which he was accredited.

Although the Papal Government would not interfere in our internal affairs, and although the most ardent longing of the Pope was for peace, it must be said that during these years the Papal Government was always loyal to the Federal Government. In 1863 Blatchford reported that His Holiness, as well as the Cardinal

[21] He declined the appointment and accepted a commission as brigadier-general in the federal army. Stock, *United States Ministers*, p. 237, n. 1.

[22] *Congressional Globe* (32nd Congress, 2nd Session), Appendix, p. 347.

[23] Lewis Cass, Jr., to W. L. Marcy, Nov. 10, 1854 (Stock, *United States Ministers*, p. 100).

Secretary of State, are decided friends of the Union and ardently desire that its integrity may be preserved."[24] Giving a report of a conversation with Cardinal Antonelli, King writes:

> The Cardinal proceeded to say, that he had carefully studied the American question; that he had read our Constitution and could plainly perceive that the so-called Confederate States had sought an unconstitutional remedy for their alleged wrongs, and were endeavoring to dissolve by force a Union consecrated by law.[25]

The position of Mr. King and the Papal Government became much more delicate in 1864 when Bishop Lynch of Charleston was reported to be a commissioner of the Confederate States to the Holy See with the mission of obtaining recognition if that was possible. In his first report on the bishop, King observes:

> Bishop Lynch of Charleston, S. C., a supporter, if not an accredited agent, of the so-called Confederate Government, has been in Rome for several weeks past. He was not, however, met with any official recognition from the Papal Authorities, nor from what I can learn, is he likely to do so.[26]

Meanwhile, a rumor reached the United States from Montreal that the Pope had recognized the Confederacy. When King called on Cardinal Antonelli to inquire about the rumor, and suggested that the presence of Bishop Lynch might have given rise to the rumor, the Cardinal remarked that "the Bishop was known here only in his clerical capacity and that not a word on political matters had passed between them."[27] In 1865 King spoke to Cardinal Antonelli about Bishop Lynch who had applied to him, through a friend, to know upon what conditions he would be allowed to return to South Carolina, and resume his clerical functions. Writing about the Cardinal's answer, King reports:

> The Cardinal remarked, in reply, that the Bishop had never been received, or recognized in any way, as an accredited representative of Jefferson Davis; and that, like every other good Catholic, resident in the U. S., it was his bounden duty to honor, respect, and obey the

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[24] Richard M. Blatchford to William H. Seward, April 4, 1863 (*ibid.*, p. 275).

[25] Rufus King to William H. Seward, Aug. 22, 1864 (*ibid.*, pp. 315 f.).

[26] Rufus King to William H. Seward, July 30, 1864 (*ibid.*, p. 313.).

[27] Rufus King to William H. Seward, Aug. 22, 1864 (*ibid.*, p. 315).

constituted authorities of the Government, under whose protection he lived.[28]

The last lines furnish an insight into the reason for the loyalty of the Papal Government to the Federal Government during this trying period in American history. They are an echo of the remark of the Pope to Alexander Randall in 1862 that it is the maxim of the Catholic Church to support constituted authority and just laws.[29]

From the viewpoint of American diplomacy, the second period of crisis was the period when the drive was made against the Papal Government which resulted in the fall of the Papal States in 1870.[30] The abiding policy of America was that of non-intervention. This was the policy enjoined on our representatives in 1848 and 1862.[31] Support of the home policy and no official manifestation of prejudice to the Papal Government characterized the conduct of our representatives during these years. A fine summation of our diplomacy during this period is given by Dr. Stock who says:

> For throughout this period of struggle for Italian independence and unity, the personal sympathies of the American representatives at Rome very naturally went out to the liberal and revolutionary elements in the country. The blessings of freedom and liberty in their own country were too happily contrasted with the political absolutism of European nations at the time. At heart they hoped for success of the popular movements, but on the whole their despatches show restraint and a spirit of neutrality through which only occasionally their real feelings are displayed.[32]

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[28] Rufus King to William Hunter, June 2, 1865 (*ibid.*, p. 341).

[29] Alexander W. Randall to William H. Seward, June 11, 1862, copy (*ibid.*, p. 252). On the period of the Civil War, cf. Stock, *United States Ministers*, pp. xxxv-xxxviii, together with the instructions and dispatches for these years; "The United States at the Court of Pius IX," *Catholic Historical Review*, IX (1923-24), 116-21; "Catholic Participation in the Diplomacy of the Southern Confederacy," *ibid.*, XVI (1930-31), 1-18; Feiertag, *American Public Opinion*, pp. 101-143.

[30] H. Leclercq, "A chronicle of Social and Political Events from 1640 to 1914," in E. Eyre, *European Civilization*, VI, 580-89.

[31] James Buchanan to Jacob L. Martin, April 5, 1848; Alexander Randall to William H. Seward, June 11, 1862, copy (Stock, *United States Ministers*, pp. 3, 250).

[32] Stock, *Catholic Historical Review*, IX (1923-24), 107.

THE EXIT OF MR. KING AS MINISTER RESIDENT

Formal diplomatic relations with the Papal Government were almost to the quarter of a century stage when the movement began to have them discontinued. A rumor spread in this country that the American Protestant Church had been ordered outside of Rome by the Papal Government. This occasioned a violent anti-Papal outburst in the press. From the press the movement spread to Congress. In the House, Thaddeus Stevens was a leading figure in the move to stop representation "at any Court or Government which prohibits free worship by American citizens within its jurisdiction of the Christian religion."[33] This was a false rumor and when Mr. King at Rome heard of the rumor and of the steps being taken on a groundless rumor he was appalled, and reported that there was no truth to the charge.[34] He also wrote to point out that it was not expedient to withdraw the American Representative at the Papal Court in the present juncture of affairs. Among other things he pointed out the number of Americans in Rome and the help that they would need in view of the imminent revolution.[35]

In this country the amendment that no provision be made for the support of an American legation at Rome from the thirtieth of June 1868 passed the House by a vote of 82 to 18. In the Senate the House amendment was retained.[36] In consequence of this, Seward wrote to King that this law "leaves your mission still existing, but without compensation, after that period." In the same letter King was given the choice of remaining at Rome in charge of the legation, without compensation, or of resigning, or of leaving Rome without resigning, on leave of absence.[37] The holding of a mission that still existed but that had no compensation put King in a very awkward position. Complaining about lack of instructions from home, he writes:

> But, as yet, I am without a line and am really at a loss what to do. It is all the more awkward, since, if asked *why* the Legation is sup-

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[33] *Congressional Globe* (39th Congress, 2nd Session), p. 850.

[34] Rufus King to William H. Seward, Feb. 11, 1867 (Stock, *United States Ministers*, p. 413).

[35] Rufus King to William H. Seward, Mar. 1, 1867 (*ibid.*, p. 421).

[36] Feiertag, *American Public Opinion*, pp. 148-57.

[37] William H. Seward to Rufus King, April 30, 1867 (Stock, *United States Ministers*, p. 426).

pressed, I can only say, that Congress acted under the belief that American Protestant worship had been excluded from Rome; The *truth* being, that it has *not* been interferred with, in *any* way; but on the contrary we have been allowed, all the past season, to hold services *apart* from the residence of the Minister and that for no reason than that the Papal Court desired to show their good will towards the American Government and People.[38]

The foregoing remarks are in a letter to Seward which is an unofficial letter. In an official letter of the same date he explains that he refrained from calling on the Secretary of State because he was at a loss to explain to His Eminence the sudden and unlooked-for withdrawal of the American Minister from the Papal Court; he also did not know in what terms he was to take his leave from the Holy Father. The latter, he goes on to say, feels hurt by the hasty and apparently groundless action of Congress and thinks it an unkind and ungenerous return for the good will he has always manifested toward the American Government and people.[39]

Because King had no private means to hold an office without pay, he took the alternative of returning to the United States in Aug. 1867, and formally resigned on Jan. 1, 1868. He left a Mr. Hooker in charge temporarily, but the American Government put Cushman, the Consul, in charge. King himself, on returning to New York was made deputy collector of customs for the port of New York. It was from the Customs House that he wrote a letter to Seward in which his embarrassment over the awkward position in which he was placed is vividly reflected. He tells Seward that he took no formal leave of the Papal Authorities because he had no "letters of recall" to present. Stating that he does not know the laws and customs and precedents for bringing a Foreign Mission to an abrupt close he wonders whether it would be in conformity with diplomatic usage to give formal notice to the Papal Government that our Minister has been withdrawn, even though the reason assigned by Congress formed no part of the communication. Then he goes on to say that in view of the Pope's conduct toward American citizens and himself and the Government, and in view of the falsity of the report about the Pope and American

[38] Rufus King to William H. Seward. Unofficial, May 7, 1867 (*ibid.*, p. 427).

[39] Rufus King to William H. Seward, May 7, 1867 (*ibid.*, p. 429).

Protestants, he finds it very annoying to see that the report is so widely spread and generally credited. In emphatic words, he states: "I did my best, at the time, and have endeavored repeatedly, since, to correct the misapprehensions which prevailed on this subject, but, apparently, without the slightest effect."[40]

The endeavors of King to correct the misapprehensions were, as he states, "without the slightest effect." The strong religious feelings and blind prejudices, especially as championed by Thaddeus Stevens, "one of the most unpleasant characters in American history"[41] would not be dissolved by logic, reason, and truth. The statement that King's remonstrances were without the slightest effect, however, also gives us an indication that other forces were at work in this unhappy episode.

In the international sphere, the way was being prepared for the recognition of Victor Emmanuel. King himself remarks that there is a rumor afloat that the closing of the American Legation, though ostensibly caused by the rumored suppression of Protestant worship in Rome, was really designed as an indirect recognition of the right and title of Victor Emmanuel to the whole of Italy. He himself is shocked that Congress should attempt to accomplish by indirection what it hesitates to do openly. The United States, he claims, has no need of resorting to subterfuge. It is in this connection that King reads the home government a very stern lesson:

> If we are to withdraw our recognition of the temporal power of the Pope and to recall the American Representative at the Papal Court, at the moment when it stands most in need of friendly sympathy, I trust, as indeed I do not doubt, that it will be done upon grounds and in a manner that shall reflect no discredit upon our country and leave no just cause of complaint to the Governments of Europe.

At the time that these measures were being taken, however, the Papal Government had not fallen. It is in the light of this that King pleads most eloquently against the closing of the Legation when he writes:

> Italy is in a ferment and the Revolution threatens Rome. It is hardly possible that six months should elapse, without a violent, perhaps a

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[40] Rufus King to William H. Seward, April 25, 1868 (*ibid.*, p. 435).

[41] S. Morison-H. Commager, *The Growth of the American Republic* (New York, 1942), II, 38.

general convulsion. Is this the time to withdraw from Rome the American Minister? Is it magnanimous in us to abandon the Sovereign Pontiff in this hour of his waning fortunes? Should we be the first among civilized and Christian nations, to strike this blow at the Holy See?

After pointing out the co-operation of the Papal Government in handing over John H. Suratt who was accused of complicity in the murder of Lincoln and who, after making his way to Rome, enlisted in the Papal Zouaves under the name of Watson, King writes:

> This sudden withdrawal of our Representative now, when, as many believe, the hours of the Papal Government are numbered seems scarcely a generous return for this friendly conduct, on their part, towards the American Government and People.[42]

The other force at work for the termination of the American Legation is to be found not in the international sphere but on the home scene. It is impossible to go into this at any great length. Suffice it to say that this is the period when Johnson was President. There was an extremely radical group in Congress who were in wholehearted opposition to the President and his Secretary of State, Seward. King was a representative for the Administration and a personal friend of Seward. The movement to eliminate the appropriations for King's office in Rome was one means used by the radicals to strike back at Seward in the person of one of his friends.[43]

When these various causes are added up they amount to the exit of Mr. King as Minister Resident. It left his office "still existing, but without compensation." On the whole it was a very shabby affair and it is to be regretted that the United States was not more candid in terminating the mission. As Dr. Stock remarks about the exit forced on Mr. King: "It was not a courteous exit nor a dignified ending of this chapter of American diplomacy."[44]

[42] Rufus King to William H. Seward, March 1, 1867 (Stock, *United States Ministers*, pp. 421 f.).

[43] Feiertag, *American Public Opinion*, pp. 163-69. A good resumé of the friction between Congress and the President is given by Morison and Commager, *The Growth of the American Republic*, II, 34-45.

[44] Stock, *United States Ministers*, p. xxxix.

THE PAPAL CONSULATE AT NEW YORK

The status of a mission that still existed but which had no compensation indicates that the mission was never officially closed. There is a similar status with regard the office of the Papal General Consul in this country. When the Papal Government fell in 1870 the office was held by Louis B. Binsse, and records show that he was recognized here as such after this period. After the fall of Papal States, Italy "was careful to respect in the Pope his character as Sovereign Pontiff." It recognized in the Holy Father "all the prerogatives of Sovereignty." It maintained him in a "condition of absolute independence as regards all powers."[45] The Italian Government did not have occasion to question the status of Binsse until 1876. In that year Italian products were offered for exhibition at the Philadelphia Centennial under the seal of the pontifical consul. It was then that the Italian Minister to this country inquired of the Secretary of State whether the exequatur of the pontifical ex-consul had been withdrawn. When the Secretary answered that it was not withdrawn, the Italian Minister again took up the matter of the "pontifical ex-consul." When Fish, the Secretary of State, answered regarding the status not of the "pontifical ex-consul," but of the "pontifical consul," he told Blanc that he was not able to comply with his request. Furthermore, he went on to say that "the functionary adverted to was appointed many years ago, long before the events which contracted to a narrow space the territory of his Sovereign." After praising the conduct of the consul, Fish went on to say: "Though his functions are of merely nominal importance, it is understood that the Sovereign who bestowed his commission has not relinquished the exercise of that right."[46] When Blanc took up the matter again, Fish read him a lesson in diplomacy by calling his attention to the unusual character of his application. "Exequaturs of consuls of foreign countries," he notes, "are sometimes revoked for other causes of sufficient moment and justice, but I am not aware of an instance of such a revocation upon the application of a foreign government."[47] Further investigation of the matter was made under William Evarts who succeeded Fish, but there is no record that the stand,

[45] L. Corti to Hamilton Fish, July 7, 1871 (Stock, *Consular Relations*, p. 429).

[46] Hamilton Fish to Baron Blanc, June 25, 1876 (*ibid.*, p. 432).

[47] Hamilton Fish to Baron Blanc, July 18, 1876 (*ibid.*, p. 434).

taken by Fish, was ever reversed. Dr. Stock is of the opinion that the Italian Government, in the absence of any further incident which could have revived the controversy, and with no likelihood that further commissions would be issued by the Vatican, felt that it would be unwise and futile to disturb the existing *status quo*.[48] At any event, the existing records show that the Papal Consulate in the United States was never officially closed.

This outline of relations between the United States and the Papal States, it is hoped, will give historical perspective for the question of our sending an Ambassador to a Temporal Sovereign.

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[48] On the episode of the Pontifical Consul in New York, cf. Stock, *Consular Relations*, pp. xxxvii-xxxix, 429-37; "Was the Papal Consulate in the United States Officially Ended?" *Catholic Historical Review*, XXX (1944-45), 165-70; J. Durkin, "The Case of the Pontifical Consul at New York," *Catholic Historical Review*, XXVIII (1942-43), 499-503. Attention should also be called to Dr. Stock's digest of the relations between the two governments, entitled, "The United States and the Vatican: Past Diplomatic Relations," Carnegie Institution of Washington, *News Service Bulletin*, X (1929), 57-61.

THE BENEFIT OF THE ROSARY

From the frequent meditation on the Mysteries, the soul little by little and imperceptibly draws and absorbs the virtues they contain, and is wondrously enkindled with a longing for things immortal, and becomes strongly and easily impelled to follow the path which Christ Himself and His Mother have followed. The recitation of identical formulas, repeated so many times, rather than rendering the prayer sterile and boring, has on the contrary the admirable quality of infusing confidence in him who prays and brings to bear a gentle compulsion on the motherly Heart of Mary.

—Pope Pius XII, in his encyclical *Ingruentium malorum*, issued Sept. 15, 1951.

FOR THE FREEDOM AND TRANSCENDENCE OF THE CHURCH

There are several views expressed or implied in Fr. Connell's recent article, "The Theory of the Lay State," which call for some critical consideration.[1]

I

The first criticism must bear upon this statement: "The right of the Catholic Church to preach the Gospel independently of every civil power implies an obligation on the state imposed directly by Jesus Christ to permit the legitimately delegated preachers of the Gospel to enter its territory and to announce their message to the people."[2] This statement contains two implications which (doubtless unintentionally) violate the law of Christ stated by Pius XI in *Quas Primas,* when he said that the Church has "a natural and inalienable right to complete freedom and immunity from the power of the state."

The first implication is that the state somehow possesses a juridical empowerment to "permit" the Church to preach the Gospel.[3]

[1] This article directs against me the same criticism which a previous article, "Christ, the King of Civil Rulers" (*AER,* CXIX, 4 [Oct. 1948], 244-53), made of John of Paris. The two articles are identical in substance, and the adversary is the same—a theory of the "lay state" which would maintain that the state is subject only to the natural law and not subject to the law of Christ. The second article manifests no understanding of the content of my position, just as the first article manifested no understanding of the historical significance of John of Paris. I have never proposed any such bald theory of the "lay state." Nor have I ever denied that commonplace of Catholic thought on which Fr. Connell laboriously insists—that a part of the *minoratio naturae* effected by the introduction of the supernatural was a diminution of the power that the state would, or might, have had in an economy of pure nature. Quite recently (cf. *AER,* CXXIV, 5 [May, 1951], 327-33), I made it clear that there are three principles, deriving from the law of Christ, that are obligatory norms for the action of the state—the principle of the freedom of the Church, of *concordia legum,* and of co-operation between Church and State. (Incidentally, the cited article will not be continued in *AER* but in *Theological Studies.*) Dear old John of Paris is a handful of grey ashes, long long at rest, not to be disturbed by irrelevant criticisms. But my own ashes are still animated, and hence I must point out the irrelevance.

It does not help to say that the state is obliged to grant this permission. The point is that the permission itself, an act of authority supposing a measure of jurisdiction, is put within the duty, therefore within the competence, of the state. But this is profoundly to misunderstand the principle of the freedom of the Church. By the will of Christ, the mission of the Church is directly to all men, as men. And it is the law of Christ that the Church should have direct access to all men, "independently of every civil power," as the canonical phrase has it. The phrase means that the civil power does not and may not stand between the Church, as herald of the Gospel, and any of the peoples of the earth. The state is not empowered either to permit or to prohibit the preaching of the Gospel. Nor is the Church in the slightest degree required to go to men through their civil rulers.[4]

The whole point of the principle of the freedom of the Church is that the prophetic, pastoral, and priestly mission of the Church is of a higher order than the power of the state; and it is altogether beyond the power of the state either to permit or to prevent the exercise of this threefold mission. In principle, it is almost as injurious to say that the state must permit the Church to preach as it would be to say that the state may prevent her from preaching. In both cases the jurisdiction of the state is extended beyond the

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[2] *AER*, CXXV, 1 (July, 1951), 13.

[3] In the context of Fr. Connell's thought the "permission" in question is more than a mere forbearance of prohibition, or a simple recognition of a lack of governmental competence, or the guarantee of protection for a freedom possessed *aliunde*. There is implied a distinct element of official approval, sanction, authorization. The permission is authoritative: "The civil rulers have the obligation to permit the Catholic Church to teach its doctrine to the people, whether baptized or unbaptized. In the event that the Gospel is being announced for the first time, the rulers have the right and the duty to investigate the claims of the preachers before giving positive approval" (*AER*, CXIX, 4 [Oct. 1948], 249). Notice that the obligation to permit founds a right to investigate; therefore the act of ensuing "positive approval" has a juridical character comparable to that of the investigation itself. Both assume a manner of jurisdiction.

[4] Fr. Connell objects to my theory of the Church (understood as an order of law) reaching the state (again understood as an order of law) through the people who are subject to both orders of law. Apparently he does not understand the theory; in fact, he seems to make me out a juridical positivist, as if I were saying that that ought to be law which the people believe ought

limits set by the law of Christ which prescribes that the immunity of the Church from the civil power is to be "complete." Her immunity would be less than complete if there is conceded to the state a juridical empowerment to permit her preaching. Even granted that the permission must be given as a matter of obligation, this would imply a measure of dependence of the Church on the civil power that would be violative of the perfect independence of the Church. Indeed, it would also imply a dependence of the human person on the civil power in violation of a fundamental freedom with which the human person has been endowed by the law of Christ—the freedom to hear the word of God directly from the Church, without benefit of state permission. This is the freedom that Leo XIII described when he said that "within the political community a man is free to follow the will of God and do what it commands, out of a moral sense of duty, without having obstacles put in his way."[5] Surely a previous permission of the state, however obligatory, would be a most intolerable obstacle.

There is another implication in Fr. Connell's statement. If civil rulers are under an obligation to permit the legitimately delegated preachers of the Gospel to carry their message to the men subject to their rule, this obligation carries with it (as Fr. Connell greatly insists) the further obligation to examine the credentials of the preachers and judge "whether or not their doctrine bears the seal of divinity." Notice that this obligation, imposed on civil rulers as such, is distinct from the obligation incumbent upon all men, as men, to investigate the teaching of the Church and examine the signs that attest its divine origin. It is an obligation that is made to rest upon the civil ruler formally as ruler, precisely by reason

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to be law (which is only a half-truth). My theory has its origins in a key concept of Leo XIII, that a *concordia legum* ought to prevail between Church and State, "quia utriusque est in eosdem imperium." It is also an effort to apply strictly the Catholic principle that the power of the Church (understood as a supernatural authority) over the State (understood as a human authority) is indirect, i.e., of another order than that of the state. The theory is sound. Altogether unsound is Fr. Connell's implied theory that the Church must reach the people through the state. This theory did indeed prevail under the "union of Church and State" proper to the absolutist era, when the Pope could not reach even his own bishops, much less the people, save through the king. Does Fr. Connell hold this theory to be a part of Catholic tradition?

[5] *Libertas,* in *Leonis Papae XIII Allocutiones, Epistolae, Constitutiones* (Paris: Desclée, 1893), III, 114.

of his possession of political power. This is Fr. Connell's point of emphasis. But there is a further consequence. This obligation to make a judgment on the doctrine of the Church, imposed directly upon the civil ruler in his official capacity, supposes that the civil ruler as such is empowered to make such a judgment, and to conduct the examination that must precede it. Moreover, this empowerment, or right, derives directly from the fact that he is ruler; it is an attribute of the political power as such, vested in the man who exercises the function of political government. But here again this theory violates the Church's perfect freedom and immunity from the power of the state.

Endowed with a freedom that is a prolongation of the freedom of the Incarnate Word Himself, the Church proposes herself to all men, for their free acceptance by faith, a gift of grace; but she does not submit herself to judgment by the civil power as such, nor does she admit any empowerment of the civil ruler as such to enter into judgment upon her claims, with a view to granting her access to the people under his rule. The civil ruler, precisely inasmuch as he is a man, is obliged to investigate the truth of the Church, in order that he may personally, as a man redeemed by Christ, accept the Catholic faith, if God's efficacious grace of faith is given him. For this task every man, as a man, is empowered by nature and by grace. But no civil ruler possesses an empowerment, in virtue of his political office, to conduct an investigation into the claims of the Church, in order that he may thereafter pronounce public and official judgment on them and by governmental act grant permission to the legitimate ministers of the Church to preach the word of God. To maintain or imply this theory is again to place the Church in a position of dependence on the civil power that is quite out of harmony with traditional Catholic principle.[6] Moreover, it is to imply that the civil power as such, or the civil ruler in virtue of his office, is somehow a competent

[6] Fr. Connell cites the example of missionaries who were wont first to "seek governmental confirmation of their mission 'from' pagan rulers." The example proves no "right" of government to investigate and pass judgment on the Gospel. The missionaries faced a situation of sheer fact created by the despotic powers of these pagan rulers. Moreover, the procedure was dictated by the fact that in primitive societies the example of the ruler was obligatory on his subjects. Something like the territorial principle, "Cujus regio, eius et religio," operated. If the chief was converted, so too was the tribe.

judge of religious truth, in contradiction of the central principle for which the great apologists of the sixteenth century (notably Bellarmine and Suarez) fought, against the theory of the king by divine right.

The conclusion at this point is that Fr. Connell's effort to exalt the Kingship of Christ over civil rulers results in an exaltation of the civil ruler over Christ the King, whose doctrine is made subject to judgment by the civil power. A desire to enforce the authority of the Church results in a serious diminution of her freedom and that of the people, in whose service her authority stands. And a wish to urge the obligations of the state to the law of Christ results in such an increase in the functions and competence of the state that the Church is made dependent on the state in a manner contrary to the law of Christ.

These results are paradoxical indeed, but not inexplicable. It would seem to be more than a question of correcting a manner of expression; the difficulty is more profound. There seems to be a lack of breadth, depth, comprehension, and clarity about the very perspectives in which Fr. Connell views the whole problem of Church and State. However, it is not the purpose of this article to analyze the manifold reasons for this falsity of perspective, though one reason for it will appear in the course of making a second criticism.

Before passing on to this second point, the occasion may be taken to point out a certain rationalism involved in the following statement: "and since civil rulers could not be expected to yield in this matter without examining the claims of the Church, it is within the scope of their official duty to find out whether or not the Church is authorized by God to demand certain rights. In other words, the state may not (to use Fr. Murray's phrase) 'know nothing' of the Church's divine commission,[7] but must investigate the validity of its credentials. And since only the Catholic Church among all religious organizations has received the divine commission and can give adequate proof of its divine authorization, the state is bound *per se* to yield to the claims of the Catholic Church

[7] The phrase is not mine. Bellarmine cites it, with approval, from Durandus. Fr. Connell quite mistakes its meaning. Actually, it denies what he affirms—that the civil power is a competent judge of religious truth.

alone in those matters which involve a limitation of the state's natural-law authority."[8]

In this argument there are four steps: (1) the state is obliged to investigate the proofs for the Church's divine authority; (2) these proofs are *per se* adequate; (3) therefore the state *per se* will accept them and believe in the Church's divine authority; (4) and consequently the state is *per se* obliged in certain matters to yield to the Church's authority. This I take it, is the full argument. The third step, omitted by Fr. Connell, is necessary in order that the fourth may follow. How would the state, *per se* or any other way, be obliged to yield to the Church's authority, unless it previously acknowledged this authority as divine?[9]

Let us waive the false supposition that "the state" as such is somehow capable of making an act of faith. The point here is that it is difficult to understand how the third statement can escape the qualification of rationalism, or in theological terms, Pelagianism. Because the proofs of the Church's divine mission are in themselves adequate, it does not at all follow, *per se* or any other way, that one who considers them will come to believe in her divine mission. The act of faith is dependent on the grace of God, which is freely given. In what concerns the grace of faith, in whose granting the initiative belong to God's selective love which lies beyond all human meriting, there is no such thing as "speaking *per se*," about what ought to happen. Ultimately, that will happen which God wills; and in the matter of an efficacious *vocatio ad fidem* His will is most inscrutable. To draw a straight and continuous line from a consideration of the proofs for the authority of the Church to an acceptance of that authority is to introduce an element of rationalism into the genesis of the act of faith.

II

The second criticism bears upon the conceptualism visible in Fr. Connell's thought. One might also speak of a certain logicism. By conceptualism is meant a habit of thought that uses terms (e.g., "the state") to which there corresponds only a mental construct

[8] "The Theory of the Lay State," p. 11.

[9] The passage is obscure. But it is clear that Fr. Connell is not simply distinguishing objective and subjective obligations. He is describing a process, some sort of ideal process—what ought *per se* to happen.

of some kind, but no identifiable reality *a parte rei*. By logicism is meant the achievement of a pseudo-consequence by a concatenation of propositions that represent mere conceptualizations. This conceptualism and logicism come to light when one realistically analyzes the insistent statement that it is an official obligation of "the state" to investigate the truth of Catholicism. The notion of "the state" underlying this proposition appears as a pure piece of conceptualism; and the obligation affirmed in the proposition rests for its affirmation upon the logicism described.

If this obligation rests upon "the state" as such, it must be one that can actually be imposed upon, and fulfilled by, any manner of state. The affirmation of the obligation is made absolutely, as deriving from the very nature of the state as such, independently of the particular political form it may assume. No special "hypothesis" of a particular form of state or kind of population is required in order that the obligation may find concrete application; for this obligation derives from one of the "laws laid down for all states under the Christian dispensation—whether they be Christian states or not—by Jesus Christ, as King over civil rulers." Therefore this obligation ought, for instance, to be applicable to, and explicable in terms of, the concrete political reality presented by the United States of America, which is most certainly a state. However, it is not so applicable or explicable.

First, it is impossible to locate this obligation. Upon whom does it rest—the Federal government, or the State government, or county, municipal and township governments—or upon all (or perhaps only some) of the hundreds of thousands of men in this country who hold political office and therefore may qualify as "civil rulers"? No one could possibly say. If we suppose, for the argument, that the obligation rests upon the Federal government, upon which branch does it rest—the executive, the legislative, or the judicial—or upon all (or only some) of the hundreds of men who hold various kinds of Federal office? Again, no one could possibly say.

If we suppose, again for the argument, that the obligation rests upon all American "civil rulers" (whoever they are), another difficulty appears. It is part of the genius of the American political system that the "civil ruler" is constitutionally inhibited from passing judgment in matters of religious faith and by the same token

from conducting investigation into the proofs that the Catholic Church offers in support of her claim to be the one true Church. "We, the People," by a formal act of constitutional consent, have decreed this limitation of the powers of government and the functions of civil rulers.[10] What then? In order to maintain his theory, would Fr. Connell say that "We, the People," have no right thus to limit the powers of our civil rulers, because Jesus Christ Himself directly imposes upon "the civil ruler" as such (apparently quite independently of any wishes of the people whom they govern) the obligation and the consequent right of investigation and judging the claims of the Church? Would he say that, since this obligation and right derive directly from Jesus Christ, "We, the People," are not empowered to nullify them by any act of free popular consent? Would he say, in other words, that the American system of constitutional government, wherein the powers of the civil ruler are limited by act of the people, is directly in contradiction to the law of Christ? This would indeed be a ferocious bit of logic, ending in political nonsense—in a denial of the essence of Western constitutionalism, the doctrine of consent that is at the center of Christian political philosophy and that has received its legitimate development in the Anglo-American political tradition.

Leaving aside for the moment the very bad political implications of Fr. Connell's theory, and supposing, for the argument, that no constitutional inhibitions stood against an investigation of the truth of the Church by American political authorities, one is at a complete loss to see how the obligation to conduct this investigation could possibly be discharged. It has to be borne in mind that the obligation is made part of "the official duty" of the civil ruler; it is not simply a personal obligation which he might discharge in his private capacity. Therefore the obligation would have to be met by some governmental act. It would not be sufficient, for in-

[10] Notice that this basic American political idea, which is the fundamental inspiration of the First Amendment, is an exact transcription of a basic Catholic theological idea. It cannot be too often emphasized that the First Amendment, in its purpose or ideology, has nothing in common with the French Law of Separation of 1905, the climactic expression of Continental Liberalism. The political theory that underlies the First Amendment was not the Continental Liberal theory against which the Church fulminated in the nineteenth century. I do not know any book *de iure publico* which recognizes this fact. This is a good reason for American insistence on it.

stance, for each member of Congress quietly to read Dieckmann or Tromp or Zapelena in the privacy of his own study at home, after the day's official work was done. The investigation must be conducted by "the state" as such; hence it must be public. Supposedly, after the customary manner of state investigations, some official agency would be set up. Would the President create a Department of Theology in his Cabinet? Or would both Houses of Congress appoint committees? Or would the Supreme Court take the matter in hand? Or what would be done? Obviously, a group would have to work on the project (in the U. S. there is no one "civil ruler" competent to undertake the task). Suppose the group disagreed in their conclusions, as they inevitably would? Or even suppose a miracle of agreement was wrought by God, what would be the consequence for the state? These are legitimate questions, and there are no answers to them. In fact, the mere asking of them displays the unreality in the theory.

The fact is that this theory of an obligation on "the state" to investigate the claims of the Church collapses completely when it is put to the practical test of application. The conclusion from the fact is that there is no warrant for asserting that this is an obligation deriving from one of the "laws laid down for all states under the Christian dispensation—whether they be Christian states or not—by Jesus Christ, as King over civil rulers." We may take it that Christ the King did not make any laws for civil rulers as such—laws that are absolute, as based on the very nature of civil rule—that civil rulers would be incapable of fulfilling. The asserted obligation is a chimera.

Whence then did Fr. Connell derive it? The impression is inescapable that he started with a notion of "the state" that was a pure piece of political conceptualism, and then was caught in his own logic. The argument would run thus. The state as such is obliged to obey the law of Christ and accept the authority of the Church. But the state cannot be obliged apart from a previous official investigation into the law of Christ and into the titles for the Church's authority. Therefore the state is obliged to conduct this official investigation. The logic is impeccable; the conclusion is absurd. And the reason is that the whole argument hangs in the air, suspended from nothing—from a notion of "the state" that is an empty conceptualization, unrelated to political reality.

Or is it so unrelated? In all fairness, it ought to be said that there is an alternative explanation. Perhaps Fr. Connell is not a conceptualist in his political philosophy. Perhaps when he speaks of "the state," he may actually, if unwittingly, mean the unlimited monarch, the king in the tradition of the French classical monarchy, who was also "Father of the People," possessed of the total *ius politiae*, and therefore the single source of law and governmental decision.

This supposition is strengthened by Fr. Connell's constant identification of "the state" and "the civil ruler." "L'Etat, c'est moi." The supposition is further strengthened by a revealing turn of phrase. Civil rulers, it is said, are obliged to allow the preachers of the Gospel "to teach their people the truths of salvation." Only one who was, perhaps unconsciously, thinking in terms of absolute monarchy would speak of the civil rulers and *their* people; the phrase is straight out of the vocabulary of the eighteenth century, the age of the enlightened despot. In this universe of discourse the personal pronoun was appropriate, as corresponding to the special concept of the political relationship that obtained in that historical context, when the people were both subjects and children of the king—properly *his* people. On the other hand, how silly it would be to speak of "the President of the U. S. and *his* people"!

Clearly, if the term, "the state," really means a *regimen regale* in the technical sense, a monarchic state governed singly from the top down, with unlimited power centered in the hands of "the civil ruler," the king, it might become possible to make sense out of Fr. Connell's theory of the obligations of "the state."[11] The obligation to investigate the claims of the Church and to permit her to preach could be exactly located—in the king; for nothing that concerns the state lies outside his official duty, and there are no limits to his functions. Moreover, the obligation might be successfully discharged; if in these mysterious matters a conjecture is permissible, one might think it more probable that the grace of faith should reach one king than that it should reach all the members of a Congressional committee.

Actually, if one considers the matter carefully, it becomes evi-

[11] I mean a sort of formal logical sense. It would still remain true that the assertion of this obligation is, in its tendency, injurious to the freedom of the Church.

dent that only in the political hypothesis of this particular form of "the state," an unlimited monarchy, could Fr. Connell's theory of the obligations of "the state" be rescued from sheer conceptualism and given concrete and practical, and therefore moral, meaning. The point need not be developed; it is enough to suggest that his article be reread with this point in mind.

This leads to an important conclusion. In the logic of Fr. Connell's theories there is inherent a denial of the transcendence of the Church to political forms—the principle that occupied so central a place in the doctrine of Leo XIII. The workings of this logic are easily displayed. In a political hypothesis where there is a dispersion of political responsibility and power among a variety of institutions and men, whose functions of rule are constitutionally limited, an obligation to investigate the truth of the Church is impossible either to understand or to apply. Consequently, such a political hypothesis cannot *per se* be admitted by the Church, since it would render meaningless what is asserted to be a law of Christ the King, an essential right of the Church, and an essential obligation of "the state." With similar consequence that form of state becomes *per se* obligatory and necessary in which political power is so centralized as to become susceptible of the asserted obligation and effectively subject to the law of Christ the King and to the authority of the Church. The conclusion is that the *per se* valid concept of the Church-State relationship can only obtain between the Church and a constitutionally unlimited monarchy. *Per se* therefore the Church is bound to this particular form of state; other political forms (e.g., a democratic republic with division of powers and government by the people) can only be tolerated *per accidens*. The Church therefore is not really transcendent to political forms and "indifferent" to them (provided they be just). By the logic of her own doctrine concerning her authority over the state and the obligations of the state to Jesus Christ, King of civil rulers, she must regard monarchy of the unlimited kind as the only *per se* valid and therefore *per se* obligatory form of government. It is the only form of political organization which can actually discharge the obligations of "the state" and contain "the civil ruler" in proper subjection to the authority of Jesus Christ and His Church. In a word, the Kingship of Christ requires as its *per se* ideal earthly counterpart an enlightened Catholic despotism. *Vive le Roi Soleil!*

From another point of view this same conclusion appears. If one attentively considers Fr. Connell's discussion of several knotty points of application of the principle of *concordia legum*,[12] it will be seen that he supposes an unrecognized premise—a particular concept of the legislative process that recalls Dryden's phrase, "He who possesses the king possesses the laws." Fr. Connell wants the harmony between human law and positive divine law to be achieved in a special way—by the action of a centralized monarchy with unlimited power, acting under the directly exercised jurisdiction of the Church.

This last sentence makes a fair statement of what Fr. Connell must wish to take out of the text of *Quas Primas*. At least, this is the only way in which I can understand his meaning in such wise as to bring me into the disagreement with Pius XI that he asserts to exist. For the rest, his interpretation of the Encyclical is obscured by oversimplification, by the divorce of texts from their doctrinal and historical context, and by a rather baffling mode of dialectic argument.

[12] It may be noted in passing that none of the three examples (marriage impediments, the Pauline privilege, ecclesiastical immunities), cited by Fr. Connell to disprove a supposed theory of mine, in reality touches any theory of mine. I have stated emphatically enough the principle of *concordia legum* and the primacy of the spiritual. What is interesting is the genius for the peripheral that Fr. Connell seems to manifest in his discussion of the Church-State problem. He has contributed perhaps more than anyone else in the U. S. to a centering of the problem—quite falsely to its proper perspectives—on the "right" of "Catholic governments" to repress heresy. And when he does (almost unwittingly, one thinks) approach what is the core of the problem in Leo XIII's understanding of it—the problem is one of *concordia* and importantly, *concordia legum*—some instinct for the peripheral asserts itself. He cites three "hard cases"—the kind of hard cases that make bad laws, as the saying goes. Admittedly, they are cases that would in the end have to be met; but could we not agree to meet them in the end, not at the beginning? They are extreme dislocations of the natural moral order produced by the elevation of the marriage contract to sacramental status. (Ludicrously enough, the Pauline privilege first became an actual issue in a Catholic country, Ireland, where the legal statute against divorce was drawn so tightly as to exclude it.) There is such a thing as ordered discussion. And the progress of this discussion is bewildering indeed. First I am told that I hold a theory of the lay state which I do not hold. Then I am asked how, in the theory which I do not hold, I would take account of three highly specialized cases, of which I have already, in principle, taken account in the theory which I do hold. This, I confess, is all very confusing.

Fr. Connell puts himself instantly outside of the perspectives of the Encyclical by paying no heed to the fact that it is directed against a specific error, named in the text, "the plague of our age—laicism, as it is called." (The more familiar American term is "secularism," although American secularism and Continental laicism are two significantly different things.) The essence of laicism is its contention that religion is by definition a *res privata;* therefore it has nothing to do with the *res publica.* Religion is simply for the private good of the individual in his private life; it is irrelevant to the public life of organized society and its common good. Laicism is not in the first instance a doctrine of the state and the functions of government; it is a doctrine of the commonwealth (the "great society"), and of religion, and of the relation, i.e., the unrelatedness, of the two.

This is why the Encyclical deals extensively with the *respublica* or the *civitas* (often erroneously translated "the state" or "the nation," as in the Husslein edition). It deals only incidentally, in obliquo, and *per consequentiam* with the *magistratus* and *gubernatores.*

The essence of its doctrine is in this statement: ". . . his [Christ's] royal dignity demands that the whole commonwealth be organized in harmony with the commandments of God and with Christian principles, in its legislation, in the administration of justice, and also in the forming of the minds and souls of youth to sound doctrine and purity of morals" (*regia eius dignitas id postulet, ut respublica universa ad divina mandata et christiana principia componatur, cum in legibus ferendis tum in iure dicendo, tum etiam in adulescentium animis ad sanam doctrinam integritatemque morum conformandis*).[13] The passage expresses the dominant preoccupation of Pius XI's pontificate, which was not with

[13] *AAS,* XVII (1925), 609. As the word, "componatur," indicates, this is a statement of the principle of *concordia,* so greatly emphasized by Leo XIII. In the preceding paragraph Pius XI had stated Leo's primary principle, the freedom of the Church. Liturgical honors accorded to Christ's Kingship would recall to men, he said, that the Church "by native right, which it cannot abdicate, demands complete freedom and immunity from the civil power; in discharging the function, divinely committed to it, of teaching, ruling, and leading to eternal blessedness all those who are of the kingdom of Christ, it cannot depend upon any other judgment than its own" (*nativo sane iure, quod abdicare nequit, plenam libertatem immunitatemque a civili potestate exposcere, eandemque, in obeundo munere sibi commisso divinitus docendi,*

the state or with civil rulers but with the whole order of human society, the institutional organization of the commonwealth or the City—realities that are broader than the state. Moreover, the word, "componatur," is an echo of Leo XIII's "concordia."

Fr. Connell contracts, and to this extent perverts, the intent and bearing of the Encyclical by drastically simplifying its substance to the statement that it "ascribes to civil rulers the obligation to obey the positive law of our Saviour in their official acts." (Actually, there is only one reference to the obligations of rulers; the only three other occurrences of the term, "ruler," are in a context dealing with the origin of civil authority, not with its functions.) This contraction of perspective may be due to the confusions in Fr. Connell's political thought and vocabulary; but it owes something to an apparent assumption that the whole order of the commonwealth is established by the official acts of the ruler—an assumption that Pius XI, genial author of an institutional theory of society, would energetically reject.

In any event, in this narrow perspective the problem dealt with in the Encyclical is itself narrowed to the point of falsity. Pius XI's partial problem is that of legislation and the order of law (as part of the larger problem of the order of society); Fr. Connell's single problem is that of the legislator and the legislative process. If one can at all understand his meaning, what he wants is that the Church (i.e., the ruling Church) should possess, by the law of Christ, a direct jurisdiction over the legislator, the civil ruler in his official capacity—in a word, over the civil power as such. By the exercise of this jurisdiction the harmony of the two laws is to be assured. But this is to resurrect the ancient theory of "the two swords," in at least one assertion made by that outworn theory, from which even the books *de iure publico* shy away. (A direct jurisdiction over the civil power as such is quite a different thing from the commonly held *potestas indirecta in temporalibus*. This power indirectly touches the *temporalia;* directly, the *res sacra in temporalibus;* it does not at all touch the *potestas temporalis*. It is not a power over another power, but a power over the sacred things in the temporal order which, as sacred things, are not under the temporal power, whose competence is only in the profane.)

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regendi et ad aeternam perducendi beatitatem eos universos qui e regno Christi sunt, ex alieno arbitrio pendere non posse).

Crowning all this confusion, generated by oversimplification, is the further assumption, implied in the theory that the Church should assume direct jurisdiction over the legislative power and direct control over the legislative process, that there is only one *per se* valid form of this process—the centralization of the law-making function within the state in the hands of a civil ruler with unlimited power. Only in the hypothesis of such centralization can the theory of the Church's direct and authoritative control of the legislative process be made intelligible. But here again there is a collision with the principle of the transcendence of the Church to political forms.

The contrast of positions here may be restated thus. Pius XI, and Catholic tradition in general, say: "The whole of public life and all its institutions, the whole order of the commonwealth in all its aspects, must be brought into harmony with the law of Christ as taught and administered by the Church. In particular, the legal code must be in harmony with the commandments of God, and the laws of Christ concerning the freedom of the Church, and the *res sacrae in temporalibus*—the marriage contract, the family, education, etc. How is this to be done, i.e., by what special set of political institutions? That is not for me to say. The creation of these processes and institutions is left to the dynamisms of reason and history, operating in the peoples of the world. What I oblige to, in the name of Christ, and in the name of the unity and integrity of the Christian conscience, is the goal, *concordia;* it is not for me to prescribe the means to the goal."

On the other hand, Fr. Connell says, in effect: "The civil ruler in his official acts is directly subject to the law of Christ, and by consequence directly subject to the jurisdictional authority of the teaching and ruling Church. This direct subjection of the civil power to the spiritual power is the divinely ordained means whereby a harmony of human law and divine positive law is to be achieved. In order that this means may be effective the civil power is to be centralized and unlimited in its scope. This particular form of the legislative process, this particular institutionalization of governmental power, the *rex populo solutus,* is the necessary counterpart of the direct subjection of the civil power to the law of Christ and the jurisdiction of His Church."

The contrast of positions is indeed striking, once both have been fully clarified.

There is obviously something wrong with theories that lead to such unacceptable conclusions.[14] The point of this article has been simply to indicate how unacceptable are the conclusions to which certain of Fr. Connell's theories lead, lest perhaps the specious simplicity of their seeming orthodoxy (i.e., their sincere desire to defend the rights of Christ the King and His Church) should deceive the unwary. I hope it is not disrespectful to suggest that Fr. Connell himself may be among the unwary. The thought comes to mind at the spectacle of a theologian who starts out on curialist premises, and then slips into regalism; who begins by eschewing concrete political thinking, and turns out to be a crypto-monarchist.

I have not here undertaken to defend any of my own theories, because I cannot see that they have been touched. But one remark is necessary. Fr. Connell credits me with the intention of trying to "smooth the way toward a better understanding of the Catholic Church on the part of non-Catholics in America," by a process of compromising Catholic principles, or concealing them, or understating them. The suggestion is mistaken and injurious. I reject it.

What is more important, it betrays a blindness to the present-day problem. The fact is that the Church in the twentieth century is being obliged to confront the Church-State problem in a new form. The precise form of the Church-State problem (the problematic, if you will) has continually undergone change; it has always been set by the particular kind of state with which the Church sought an orderly relationship. And the Church has never consciously and adequately faced the problem, theoretical as well as practical, put to her by a state organized on the constitutional and political lines proper to the tradition of Anglo-American democracy. The practice of Church-State relationships, and therefore to some extent their theory, has been conceived in function of the European Continental political tradition. In fact, one could say

[14] Another of these theories is that underlying the celebrated right of Catholic governments to repress heresy (cf. "The Theory of the Lay State," p. 17). The theory is that the whole of the common temporal good, including the "supernatural blessings" that are a necessary part of happiness in this life, falls under the power of the state, in such wise that the state is by nature empowered to award off all influences that might injure the citizens in their "supernatural temporal happiness." Literally understood, this theory would lead to an extreme form of the *Kulturstaat* and *Polizeistaat* which Catholic thought not only does not sanction, but forbids by its insistence on the prin-

without great exaggeration that for centuries the problem of Church and State has been the problem of the Church and France. And "France" here means two things—royal absolutism and the Revolution, both of which, after the French example, became international phenomena. (One would, for instance, more accurately understand certain portions of Leo XIII if one were to substitute the word, "France," where he used the term, "the state.")

This secular struggle between the Church and French (and Italian and Spanish) regalists and French (and Italian and Spanish) Revolutionaries has inevitably left its mark upon the theory of Church-State relationships. The mark is clearly visible in the current treatises on public law. Their categories of discussion are (1) separation of Church and State understood according to the

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ciple of subsidiarity. Behind the theory lurks the historical spectre of the Father-King, who possessed within the nation, the *magna familia*, an authority of the same nature and scope as that of the father within the family. His subjects were only subjects, not citizens; their only duty was to obey, not to share in rule. They were the untutored multitude, both spiritually and politically immature—the King's children, over whom he exercised a comprehensive "police power" (in the technical sense), a tutelage both spiritual and political, because he was to them, as Louis XIII to his French *enfants-sujets*, "le Père du Peuple." This is not the place to argue the abiding validity of this concept of the political relationship, whose shadow is not wholly absent from the thought of Leo XIII, as the mediaeval dream of the "one principle" was not absent from the thought of Boniface VIII. But apropos of the "right" of government to ward off baneful spiritual influences, asserted to be some part of a Catholic "ideal," one question may be asked. Suppose a Catholic people, universally educated, politically mature, and dynamically religious, should decide by an act of constitutional consent that the functions of civil government in regard of the supernatural blessings which are recognized as needful for their temporal happiness are to be limited to the protection of the freedom of the Church in her proper task of procuring these supernatural blessings—suppose, I say, that this Catholic people were thus to deny to its government the right to ward off baneful spiritual influences or to repress heresy by coercive measures, what then? Would such a Catholic people offend against some immutable principle of Catholic tradition? Would such a government have to be denied the epithet, "Catholic"? Would it, as a government, be deprived of some essential right inherent in the essence of the political relationship as such? Would such a people sin against the nature of the state or the nature of the Church, or against some *per se* obligatory "ideal" of Church-State relationships? Would such a Catholic people be living its political life *in thesi* or in *hypothesis*?

theory of Continental Liberalism, which was absolutist, and (2) union of Church and State as understood in the so-called "Catholic states" of post-reformation Europe, which were likewise absolutist. These books never consciously conceive the problem of Church and State in terms of a state not organized on the monarchic and absolutist lines familiar to Continental politics. Nor would one gather from these books that there is any such thing as the "liberal tradition," which political historians are accustomed to distinguish from Continental Liberalism, its deformation. The essence of this tradition lies in its freedom from the vice of political absolutism, in its idea of constitutional (i.e., limited) government, and in its sound concept of "the people" as an organized and self-conscious body of equal citizens with rights of self-rule, and not (as in the absolutist tradition, both regalist and revolutionary) an undifferentiated mass of "subjects," who simply are ruled.

Catholic theorists on Church and State could for a long time afford to overlook the problem presented by a state organized according to the principles of the liberal tradition and its concept of constitutionalism and of free political institutions, because the lands in which this manner of state developed were predominantly Protestant, and consequently the problem of an orderly relationship between the Church and these states was not an urgent one. Moreover, the struggle with Continental Liberalism was so intense, prolonged and bitter that it quite absorbed the energies of Catholic thinkers. However, the new problem has become urgent in the twentieth century, which has seen the death of Continental Liberalism, and is witnessing the struggles of the liberal tradition to be reborn, in birth-pangs induced by the pressure of worldwide totalitarian Communism—a threat to all that both the Church and the liberal tradition stand for.

This is the problem with which I have been concerned. The problem has not been solved. And it is not soluble in terms of that formulation of Catholic doctrine which was achieved in the course of the Church's conflict with nineteenth century Continental absolutist liberalism. The problem does not turn on the purely factual distinction between a "Catholic majority" and a "Catholic minority." It turns on a whole theory of society, the state, the government, the body politic and the people. So much so that the problem itself would perdure even in the case of a "Catholic majority."

Certainly we in the United States should see this clearly, even though the vision of some European thinkers may be obscured by the still unsettled dust of controversy or by a nostalgia for the dear dead days of the "Catholic state" on the monarchic or dictatorial model. (Actually, many contemporary European thinkers are puzzled at the tenaciousness of the so-called "classical thesis" in the United States, the country where it never had, and never will have, application, where a new and genial political tradition was inaugurated, and where, they tend to suppose, a newly creative solution of the Church-State problem, under all fidelity to Catholic principles, might take its rise.) Since the historical distinction, "Catholic majority" *vs.* "Catholic minority," is not really relevant to the problem, the distinction of "thesis" and "hypothesis" affords no starting point for a viable theory. Moreover, at this distance from the controversy into which the distinction was thrust, it is permissible to raise the question, just how "traditional" is this distinction? For my part, I have not been able to discover any deep roots for it, or see how it is a prolongation of any Catholic principle.

This much has been said in order to indicate that I consider myself to be dealing with a speculative problem. Fr. Connell also says that he is dealing with a speculative problem, although he gives no idea of what it is. His article in part deals with a false problem (is the state subject only to the natural law?) and in part it takes hold of a real problem by the wrong end—the problem of *concordia,* which is not properly a speculative but a practical problem, having to do largely with the legal and political institutions through which *concordia* is to be achieved. My speculative problem is very real, as real as the political context from which it takes its rise. There are those who do not see it; nonetheless, it remains as visible as it is real.

Curiously enough, among those who see it are some of those "fair-minded" non-Catholics who Fr. Connell with illusory confidence expects to be quite satisfied with the thesis-hypothesis disjunction. They see quite clearly the fact to which Fr. Connell is seemingly blind—that the hypothesis, as understood in this disjunction, is not the American hypothesis. They would like to know why the Church's condemnation of a "freedom of religion" based on the religio-political ideology of Continental Liberalism (which they likewise condemn) should be operative against the freedom

of religion guaranteed by the First Amendment, which is not based on the ideology of Continental Liberalism. Fr. Connell underestimates their capacity for reason and logic, while putting too great a strain on their fair-mindedness. The fact is that they do not consider the current attitude of the American Catholic Right,[15]

[15] The term is used without prejudice; cf. the interesting article by Y. Congar, "Mentalité 'de droite' et intégrisme," *La vie intellectuelle*, June, 1950, pp. 644-66. As a "man of the Right," Fr. Connell instinctively conceives the problem of Church and State in terms of the Church understood solely as the spiritual power, not as the *communitas fidelium*, the Christian people. In this respect he is false to the general perspectives of the thought of Leo XIII, part of whose grand historical achievement was the transformation of the problem from that of Church and State, i.e., the relations of the two powers, to that of the Church and human society, i.e., the dynamic relation of Christian doctrine and Christian law to all the aspects of the organized life of the *respublica*, the commonwealth (this, against the virus of laicism). Again, as a "man of the Right," Fr. Connell instinctively conceives the problem solely in terms of the power of civil government, not in terms of the freedom of the people and the freedom of the Church understood as the Christian people. Here again he is most particularly false to the perspectives of the thought of Pius XII, with whom "the people" and their freedoms have moved firmly into the center of Christian thought and concern, and in whom a certain healthy Christian distrust of centralized government is visible, aroused by the dangers of a totalitarian age. Once again, as a "man of the Right," Fr. Connell sets the focus of his partial problem on the "right of Catholic governments to repress heresy." His thought moves in simple abstract lines: the Catholic Church is the one true Church; therefore no one (i.e., no individual and no "state") has any right to be other than Catholic; therefore, if some people happen to be other than Catholic, the state, as part of its paternal spiritual function of procuring and protecting "supernatural blessings," has the right to "exterminate" them—mildly, in this twentieth century—from public life. Under whatever manner of juridical and dialectical argument, the dynamism behind this manner of thought is that characteristic of the "man of the Right." This, I repeat, is said without prejudice. The mentality of the Right is a permanent phenomenon within the Church. "Such an attitude," P. Congar says, "is characterized by a certain distrust of the subject, of man, and by a tendency to put emphasis on the determination of things by the way of authority. By instinct it stands for what is 'finished' and defined, what needs only to be imposed and received; it stands against what aspires to be, what has not yet displayed all that it will be, what must still be searched for. It has no great liking for what comes from below; its sympathies are for what is imposed, ready made, from above" (*art. cit.*, p. 660). The mentality appears clearly in Fr. Connell. His single concern is for the powers of the powers, not for the freedoms of the people. And he considers the theory and practice of Church-State relations to be

which condemns the First Amendment in principle and praises it in practice, to be either intellectually or morally respectable. What these men think is indeed quite secondary to the prime problem—the truth of the matter. But the fact of their thought must be registered, as a fact. There is no excuse for being blind to the fact; still less, for being bland about it.

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"all finished." There is no more problem; it has been solved. Leo XIII said the last word. The theologian's task is that of repetition of what has been said. He has not to search, explore, explain, develop; he has simply to impose the finished formula.

BISHOP RYAN ON THE SANCTIFICATION OF SUNDAY

But this obligation is incumbent on society as well as on individuals. That is, man, not only as an individual person, but as a member of society, must pay homage to God. It does not suffice to praise God in private; we must worship God in public. Deists as well as Christian doctors teach that the obligations of public worship, of worshipping God in public, and not merely in private, is of the very essence of the law of nature. Hence we find that this unalterable law of consecrating one day in the week to the public worship of God, Christian society has everywhere recognized and enforced, and so from earliest Apostolic times the observance of the Sunday became of civil as well as ecclesiastical precept.

Civil rulers in all Christian lands, following the lead of the first Christian emperor, have accepted, sanctioned, and enforced the universal ordinance of God's Church, and, therefore, besides all this solemn sanction already mentioned, the sanctification of the Sunday has the sanction of the civil law.

—Bishop Ryan of Buffalo, in his sermon to the Third Plenary Council of Baltimore.

REPLY TO FATHER MURRAY

In his current rejoinder to my criticisms of his theory on the relation between Church and State Fr. Murray has chosen to attack me instead of clarifying and defending his own views. Indeed, he affirms that he cannot see that his own theories have been touched by my objections.[1] Now, while it is a military adage that the best defense is a counterattack, I think that from the theological standpoint it would have been better if Fr. Murray had attempted to answer the objections which I raised. There are others besides myself who believe that these objections do touch his theories, and his easy-going way of brushing them aside as if unworthy of consideration gives no help toward solving our difficulty of reconciling Fr. Murray's views with the teaching and practice of the Church.

Moreover, it is puzzling to read Fr. Murray's statement that the cases I adduced (as objections to his theories) "would in the end have to be met; but could we not agree to meet them in the end, not at the beginning?"[2] For, if these cases do not touch Fr. Murray's views, why do they have to be met at all? But if, on the other hand, they do touch his views, why should they not be met at once, since they concern the compatibility of Fr. Murray's opinions with Catholic teaching and practice? As Catholics we must regard the Church's teaching and practice as the proximate criterion of the tenableness of any theological theory that may be proposed; and when the theory seems to be opposed to the Church's teaching or practice, a thorough investigation should be made to see if a reconciliation is possible. This should be done, not at the end, after support for the theory has been sought from other sources, but at the very beginning. For, if no reasonable way of establishing such a reconciliation can be found, the theory should be abandoned, however convincing the arguments in its favor may seem. Now, Fr. Murray's theory on the relation between Church and State seems in some respects to be out of harmony with the Church's teaching and practice. If he can prove that there is no opposition, theologians will cease to object to his opinions on this ground. But if he cannot or will not prove this point, he must expect that his theory will be viewed with suspicion.

[1] Cf. *supra*, p. 43.

[2] Cf. *supra*, p. 39 n.

However, since Fr. Murray prefers to attack me instead of answering my objections, the task devolves on me of defending myself against his charges. I shall try to follow as closely as possible the order in which he brings up his objections.

I

Fr. Murray begins by accusing me of holding by implication that the State possesses a measure of jurisdiction over the Church inasmuch as I said that the State has the obligation "to permit the legitimately delegated preachers of the Gospel to enter its territory and to announce their message to the people." Fr. Murray interprets the verb *permit* as implying on the part of the one granting permission "an act of authority supposing a measure of jurisdiction" so that my words imply that the State possesses a "juridical empowerment" to permit the Church to preach, that the civil power may grant the Church "authorization" to exercise her mission, and that consequently there is a "measure of dependence of the Church on the civil power." And he quotes against my supposed implication the words of Canon 1322 "independently of every civil power" describing the Church's divinely granted right to teach all nations.

Now, it is surely unfair to accuse a person of holding something *by implication,* when he *explicitly* states the contrary. Yet, that is what Fr. Murray has done in this instance. Furthermore, he avoids making any reference to my explicit statements which are directly contrary to what he ascribes to me by implication. Thus, in the very paragraph from which his first quotation against me is taken[3] I quoted to support my teachings the very canon from which he has taken a phrase to use against me.[4] Indeed, the phrase "independently of every civil power" which Fr. Murray adduces to prove I am wrong is found in the very sentence which he quotes from my article. (To emphasize the freedom of the Church from all civil power in the exercise of her apostolate I put this phrase in italics, which Fr. Murray omits in quoting me.)

An even more startling example of this method of controversy appears in Fr. Murray's footnotes, Nos. 3 and 6.[5] In the former footnote, Fr. Murray quotes from my article "Christ the King of

[3] Cf. *supra,* p. 28. [4] *AER,* CXXV, 1 (July, 1951), 13. [5] Cf. *supra,* pp. 29, 31.

Civil Rulers" which appeared in *The American Ecclesiastical Review* for October, 1948; in the latter he refers to a statement in the same paragraph. But he makes no reference to a sentence that I put between these two. That my readers may perceive the full significance of this method of argumentation, I shall quote the entire paragraph:

> The civil rulers have the obligation to permit the Catholic Church to teach its doctrines to the people, whether baptized or unbaptized. In the event that the Gospel is being announced for the first time, the rulers have the right and the duty to investigate the claims of the preachers before giving positive approval. Since the Church received her commission to preach directly from Christ Himself, she has the right to announce her message in non-Christian lands, whether the government consents or not. However, the usual procedure of missionaries to pagan lands has been to seek governmental confirmation of their mission, when it is prudently possible to follow this procedure.[6]

Now, Fr. Murray quotes the first two of these four sentences, refers to the fourth, and entirely omits any reference to the third. He claims that I denied by implication that "it is the law of Christ that the Church should have direct access to all men, 'independently of every civil power,' " yet disregards my statement that "since the Church received her commission to preach directly from Christ Himself, she has the right to announce her message in non-Christian lands, whether the government consents or not." It is difficult to believe that Fr. Murray overlooked this third sentence of my paragraph, since he evidently read the first, the second and the fourth sentences.

What, now, of the force of Fr. Murray's charge based on the meaning of the verb *permit*? He takes it for granted in the text of his article that this word signifies an authoritative giving of a right; and though in note 3 he indicates that this verb might signify a mere forbearance of prohibition, he argues that in my context it means the granting of authorization. I believe, however, that if Fr. Murray had quoted the statements from my context which I just mentioned, it would be clear that in my use of *permit* I had merely in mind the attitude of the government of doing nothing to hinder the activity of the Church in its divinely authorized

[6] *AER*, CXIX, 4 (Oct. 1948), 249.

task of preaching and ministering to the spiritual needs of the people. If Fr. Murray had given all the pertinent context, the only charge that could be reasonably based on my statement that the civil rulers must permit the Church to function is that I did not choose the correct word to express my meaning. The meaning of my statement must be evident to any fair-minded reader.

But, did I make a mistake in choosing the word *permit* to express my meaning, as Fr. Murray takes for granted in the text of his article? I believe that the authority of the dictionary can best answer that question. In the *Standard Dictionary* the first meaning of *permit* is given as "to allow by tacit consent or by not hindering, take no steps to prevent, consent tacitly to, suffer," whereas under the secondary meaning we find "to grant leave to by express consent or authorization, empower expressly, authorize." Similarly, in Webster's *International Dictionary* the primary definition of this word is "to consent to, allow to be done, to tolerate, to put up with," while for the secondary meaning we have "to grant one express license or liberty to do an act, to authorize, to give leave."

Hence, although I used the word *permit* in its primary meaning to express an idea that is perfectly orthodox, Fr. Murray insists on interpreting it in a secondary meaning and then claiming that I have enunciated (by implication) a proposition gravely derogatory to the perfect liberty which the Church received from her Divine Founder. Fr. Murray's mode of argumentation seems a bit arbitrary, to put it mildly.

Certainly, when the Council of Trent used the word *permissive* to signify the relation of the divine will to sin, there was no intention of saying that God *authorizes* men to commit sin.[7] I am sure that when Fr. Murray says, in the beautiful prayer of his holy Founder "Ne permittas me separari a te" he has no intention of asking Our Lord not to authorize him to lose the state of grace. The use of the word *permission* in the sense which I have ascribed to it and in conjunction with a situation such as we are considering in this discussion is found in a letter of St. Bernardine Realino, S.J., appearing in a recent biography of this holy confrere of Fr. Murray: "We have received word that our Fathers have entered

[7] *DB*, 816.

China with the permission of the king, and are preaching our holy faith and baptizing."[8]

Fr. Murray endeavors to confirm his charge that I subject the Church to the authority of the State by pointing out that I say that "it is within the scope of the official duty of civil rulers to find out whether or not the Church is authorized by God to demand certain rights" and hence they "must investigate the validity of its credentials." This, he says, implies a right of the government "to pass judgment on the Gospel,"[9] and constitutes the civil ruler "a competent judge of religious truth."[10] Moreover, he adds, I have been guilty of rationalism or Pelagianism in holding that the civil ruler, after having made an investigation of the Church's claim, is *per se* bound to yield to the Church's claims, since this involves an act of faith, and this in turn requires supernatural grace which is beyond human meriting so that we may not say that it ought to happen.

Fr. Murray arrives at his conclusion that I show a tendency toward rationalism and Pelagianism by filling in a proposition in my chain of argumentation, which he says follows by logical necessity, and then promptly condemning me on the basis of this proposition. I do not think that this proposition follows necessarily. If I were asked to fill in this link (I did not do so because I thought it sufficiently implied) I would express it as: "The State is bound *per se* to accept the proofs for the Church's claims" which is quite different from Fr. Murray's interpretation of my thought: "The State *per se* will accept the proofs for the Church's claims and believe in the Church's divine authority."

At any rate, there is a vital defect in Fr. Murray's objections in that he does not distinguish between the preamble of faith, the motives of credibility and the judgment of credibility (and credentity) on the one hand, and the truths of faith, the motive of faith and the act of faith on the other hand. The former are natural, the latter are supernatural. It is because of his failure to make this important distinction that Fr. Murray identifies the obligation of the state to yield to the claims of the Catholic Church—which obligation I uphold—with an act of faith.[11] Again, he ascribes to me the asser-

[8] Cf. Sweeney, S.J., *Bernardine Realino. Renaissance Man* (New York: The Macmillan Co., 1951), p. 125.

[9] Cf. *supra*, p. 31 n. [10] Cf. *supra*, pp. 31 f. [11] Cf. *supra*, p. 33.

tion that the government has a right to "pass judgment on the Gospel."[12] I certainly would hold nothing of the kind, unless the Gospel be considered as a purely human narrative, in which case a civil ruler, anxious to find out the value of the Church's claims, may investigate its reliability, just as a private individual may do.

In other words, the civil official has the obligation to investigate the motives of credibility offered by the Catholic Church as the private citizen has, and the intellectual procedure in both cases can be the same. The difference between the two is found in the practical judgment. In the former case it determines an obligation of an official character (to permit the Church full freedom), in the latter case it determines an obligation of a private character only (to embrace the religion taught by the Catholic Church). In both instances the judgment is a logical consequence of a *judicium speculativum credibilitatis* ("The claims of the Church are sound"), and a *judicium speculativo-practicum credentitatis* ("The claims of the Church should be accepted"). All this process is essentially different from the supernatural act of faith. I wholeheartedly profess that I believe that the act of faith (as also even the *initium fidei*) requires supernatural grace, and I trust that by this profession I shall clear myself of the charge of Pelagianism.

It is difficult to see, even from the practical standpoint, why Fr. Murray objects to the investigation of the motives of credibility by a civil official with a view to permitting the Church to exercise its ministry without hindrance. Would he hold that the civil official must allow everyone who proclaims a religion to preach and minister without any investigation of his credentials? Does he mean that a ruler, confronted by several preachers, each claiming to announce God's message, but differing among themselves, may not examine the proofs each has to offer for the sincere purpose of finding which is the authentic teacher? Does he hold that in the event that such a ruler finally concludes that the Catholic preacher alone has sound credentials, and permits the Catholic Church to proclaim its message and baptize the citizens and perform other acts of the ministry, unhampered, and even favored by the government, he has committed a sin by placing the Church "in a position of dependence on the civil power" and by making himself "a competent judge of religious truth"?

[12] Cf. *supra*, p. 31 n.

II

The main objection adduced by Fr. Murray in the second part of his paper can be proposed, I think, in the following syllogistic form:

Christ did not make any absolute laws for civil rulers that civil rulers would be incapable of fulfilling in any real, concrete political situation. But it is impossible under a government such as we have in the United States for the civil officials to investigate the truth of the Church (the credentials of Catholicism). Therefore, Our Lord laid down no law that is absolute, binding all civil rulers under the Christian dispensation to investigate the credentials of Catholicism.

I think that a distinction is called for in the major of this argument. If the meaning is that the concrete political situation itself is in conformity with the divine law in all respects, I concede. But if a particular situation contains factors that are themselves not in accord with God's will, it does not follow that Our Lord did not lay down laws which in this particular instance cannot be fulfilled because of these factors.

Similarly, I would distinguish the minor. If what is meant is that certain unfortunate conditions prevailing in our land, particularly the fact that so many of our citizens are not concerned with seeking the one true religion, render it the most feasible policy for our government to show equal favor to all religions (and consequently exempt the civil officials from the obligation of seeking the true religion as far as any governmental policy is concerned), I fully agree. And, to repeat what I have often said before, I firmly believe that for our land the most practical policy is to have equal freedom for all religions, and I cannot see any probability of a change of circumstances in future (even the gaining of an overwhelming majority of the votes by Catholics) that would justify a change in our national policy of equal rights for all creeds.

However, if the meaning of this minor is that it is essential to a democratic form of government to show no special favor to the one true religion, so that there need be no attempt on the part of the officials to discover the true religion, I deny the minor. I cannot see why homage cannot be rendered to Christ the King, and obedience given to His laws, and special favor shown to His Church in a democracy, just because it is a democracy.

If the principle laid down in the major of Fr. Murray's argument were applied to other situations, it would lead to conclusions which could not be admitted. Certainly, every Catholic admits that the Church possesses authority in spiritual matters over all baptized persons. But how can the Church in practice exercise that authority today over the millions of baptized persons separated from her communion? Certainly, if we argued that Christ did not make any absolute laws for His Church that the Church would be incapable of fulfilling in concrete situations, it would seem to follow that He made no ruling to the effect that all the baptized come under the spiritual jurisdiction of His Church.

The principle proposed by Fr. Murray—that Our Lord would not lay down any absolute laws that could not be observed in all concrete situations—would fail also if applied to the unquestionable obligation imposed on the Church to preach the Gospel to all human beings. After two thousand years, it is still not possible to fulfill this precept. Similarly, the law making the reception of Baptism necessary as a means for salvation is one that cannot be observed in the case of a vast number of infants who die daily throughout the world. But the existence of such a law cannot be doubted.

In other words, from the undeniable fact that in the United States conditions are such as to preclude governmental favor to the Church of Christ, it does not follow that it is not the obligation *per se* of the government in a democracy such as ours to find out the true religion and to favor it.

Fr. Murray claims that only in an unlimited monarchy could my theory of the obligations of the state become practical; and he designates me as a crypto-monarchist, whose ideas on the Church-State problem are based on the royal absolutism of the French kings. Even Leo XIII, according to Fr. Murray, was inclined to base his doctrines on the State on conditions pravailing in France.[13] However, this assertion can hardly be applied to the statement of Leo XIII in his Encyclical on Catholicity in the United States, which clearly proposes special favor to the true Church as possible and desirable even under a government such as that of the United States:

[13] Cf. *supra*, p. 44.

The fact that Catholicity with you is in good condition, nay, is even enjoying a prosperous growth, is by all means to be attributed to the fecundity with which God has endowed His Church, in virtue of which, unless men or circumstances interfere, she spontaneously expands and propagates herself; but she would bring forth more abundant fruits if, in addition to liberty, she enjoyed the favor of the laws and the patronage of the public authority.[14]

Fr. Murray asks: "Would [Fr. Connell] say that, since this obligation and right [to investigate the claims of the Church] derive directly from Jesus Christ, 'We, the People' are not empowered to nullify them by any act of free popular consent? Would he say, in other words, that the American system of constitutional government, wherein the powers of the civil ruler are limited by act of the people, is directly in contradiction to the law of Christ?"[15]

To this I would answer that the prohibition to show special favor to any particular religion, imposed by our constitution on the civil officials of our land, is perfectly reasonable and in no way opposed to the law of Christ, insofar as that law admits of cases in which, because of particular circumstances, equal freedom for all creeds is the most practical policy. Pope Leo XIII pointed this out,[16] and undoubtedly such conditions prevail in the United States. But this does not prove that in other circumstances it would not be the required condition for the government to recognize the true religion, whatever form of government it may be. In such circumstances the people would do wrong by voting against governmental recognition of the true religion, just as they would do wrong if they voted that all children must attend State schools.

I cannot agree with the summation of my views which Fr. Murray essays to give. He interprets me as upholding the direct subjection of the civil power to the law of Christ and of His Church.[17] Certainly, it is not fair to present my views in this unqualified fashion, when I expressly stated: "The mediaeval view that the Pope has direct jurisdiction over all civil government is now abandoned."[18]

The *concordia* of which Fr. Murray speaks in the end is indeed

[14] *The Great Encyclical Letters of Leo XIII*, ed. John J. Wynne, S.J. (New York: Benziger Brothers, 1903), p. 323.

[15] Cf. *supra*, p. 35.

[16] *DB*, 1874.

[17] Cf. *supra*, pp. 41 f.

[18] *AER*, CXIX, 4 (Oct. 1948), 247.

a goal to be ardently sought. From the standpoint of practical ways of attaining this objective I presume we are in substantial agreement. We must accept present-day conditions as they are and make the best of them, supplementing our own efforts with the prayer "Ut omnes unum sint." But I do not think that Fr. Murray has given us any convincing reasons for departing from the views on the relation between Christ and the State, and the Church and the State, and on the ideal form of *concordia* which our standard dogmatic manuals present as the commonly accepted Catholic doctrine.

* * * * *

In conclusion, let me add a word about the attitude which Fr. Murray manifests toward me in his article. Frequently he uses expressions indicating that I have shown a lack of intellectual ability in this controversy. He ascribes to me "a lack of breadth, depth, comprehension and clarity," "falsity of perspective," and "confusions in my political thought." He says that I give no idea of what is the speculative problem with which I am dealing, that I have a "genius for the peripheral," and that I am guilty of logicism. This last he defines as "the achievement of a pseudo-consequence by a concatenation of propositions that represent mere conceptualizations," which, I take it, is a somewhat complicated way of saying that I am rather stupid.

Now, I have no wish to enter into any discussion on this subject. Each of us is endeavoring to use the intellectual gifts conferred on him by God in the service of Catholic truth; and God has given Fr. Murray a brilliant mind. However, all of us, including Fr. Murray, are fallible; and when a theologian objects to the views of another, he is fully within his rights to combat those views (always with due observance of the Church's teachings), and to point out factual or dialectic flaws, if he finds them. No one can reasonably object to this manner of controversy. But it is more gracious and more charitable to refrain from remarks about an opponent's intellectual deficiencies. It adds nothing to the objective value of one's arguments.

I candidly admit that I have found difficulty in understanding Fr. Murray's theory; and even now I am not sure that I have fully grasped it. I would attribute this to my own mental limitations, were it not for the fact that other theologians whom I regard

as outstanding in intelligence have admitted that they experience the same difficulty. Hence, I believe that the manner in which Fr. Murray presents his view may be a partial cause, at least. He is fond of lengthy and complicated sentences, which at times furnish difficult reading. Accordingly, I courteously suggest that Fr. Murray give us his views simply and briefly—in two or three pages, if possible. Then we shall be prepared to discuss more understandingly his views on Church and State.

FRANCIS J. CONNELL, C.SS.R.

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FIFTY YEARS AGO

The leading article in *The American Ecclesiastical Review* for January, 1902, from the pen of Fr. Matthew Russell, S.J., of Dublin, Ireland, is a biographical notice of Canon Patrick Sheehan, whose novels *My New Curate* and *Luke Delmege* first appeared in this periodical. It is indeed edifying to read that the extensive literary activities of this good priest in no wise infringed on his zealous labors as pastor of Doneraile. . . . Fr. Joseph Putzer, C.SS.R., explains the faculty of granting a *sanatio in radice* contained in the privileges communicated by the Holy See to the Bishops of the United States. . . . "The Priestly Ministration in Cases of Epilepsy, Apoplexy and Uraemia" is the topic discussed by Fr. Alfred Mulligan, of Birmingham, England. He describes the characteristic symptoms of each of these three ailments, and states his opinion as to which particular cases call for the administration of Extreme Unction. He makes mention of the theological teaching that if a priest is summoned to an urgent sick-call when he has just finished the Consecration in the Mass he is to place the sacred species in the tabernacle and attend to the needs of the sick person; then on his return he is to resume the Mass where he left off, even though several hours have elapsed. However, if the interruption occurs before the Consecration and the interval lasts more than an hour, he is to begin the Mass again. . . . Under the title "Hugh of St. Victor, Mystic," Fr. J. McSorley, C.S.P., contributes a scholarly article on the theological status of the great twelfth-century writer and on the various editions of his works. . . . In the "Ecclesiastical Library Table" are summarized recent writings on philosophy, theology and Sacred Scripture.

F. J. C.

Answers to Questions

BALDACHINO OVER ALTAR

Question: Are there any definite specifications or measurements about the baldachino or canopy over the altar?

Answer: Msgr. Collins tells us that the canopy over the altar has one essential purpose and that is to cover the entire altar top and the predella upon which the celebrant stands. Van der Stappen in his *Sacra liturgia* states that "the mind of the Church is that over all altars should be constructed a canopy on columns, or a shrine of wood, or stone, or marble; or, in the absence of a canopy on columns, should be hung a canopy they call a baldaquin, square in shape, covering the altar and its footpace."

Anson (*Churches, Their Plan and Furnishing*) warns that in view of the widespread neglect of the various rules laid down about the canopy over the altar, it cannot be insisted too strongly that even in the most simple church, where the Blessed Sacrament is reserved the altar should not be without some form of canopy over it.

SANCTUARY LAMP

Question: In a small chapel for Sisters now being outfitted this question has arisen. May the pedestal on which the statue of the Blessed Mother rests be used also to support a small table size sanctuary lamp? Or should this be placed upon a separate and distinct bracket or pedestal so that there would be no question in the mind of the observer that the lamp was indeed the sanctuary lamp and not a votive candle before the Blessed Mother?

Answer: The sanctuary lamp is not to be placed on the *mensa* or a gradine of the altar; likewise it is not to be placed immediately above the altar. It is permitted to suspend the sanctuary lamp in the middle of the sanctuary before the tabernacle of the main altar but at a height where the view of the altar is not completely obstructed. In smaller churches and chapels a metal bracket attached to the wall on one side of the sanctuary becomes a very suitable

place for the sanctuary lamp. In any and all events the sanctuary lamp should not be set on a pedestal before a sanctuary statue.

VESPERALE

Question: What is the vesperale?

Answer: The vesperale is a cloth or covering placed over the altar cloths to prevent them from becoming dusty or soiled when the altar is not actually in use. The rubrics do not prescribe its use but it is highly recommended from a purely utilitarian motive. It is always removed when Holy Mass is being offered. The vesperale can be made of any material, linen, silk, or any other suitable material. Red or green seem to be the accepted colors although any color is permitted except black.

Frequently enough we find the vesperale decorated with various symbols as an I H S but "inasmuch as it is not a liturgical furnishing, it seems preferable that it be as simple and as inconspicuous as possible" (Sadlowski, *Sacred Furnishings of Churches*).

EMERGENCY BINATING

Question: In my vicinity there was a funeral. The nephew of the deceased was to be celebrant of the Mass. The priest had an accident on the way to the church where the funeral services were to take place and was unable to be the celebrant. The accident occurred at a time when there was still a priest fasting who had not as yet said Holy Mass. He became the celebrant of the funeral Mass. Now if there was no priest to be found fasting could someone else have said another Mass—his second of the day on this occasion of a funeral?

Answer: We know that the local Ordinary can grant this permission to binate only when according to his prudent judgment, because of the need for priests, a notable number of people would miss Mass on Sunday or a holyday of obligation. We are likewise instructed that this permission is not to be presumed. If such regulations are set down for binating on Sunday or a holyday of obligation we can readily deduce that no priest could take it upon himself to conduct a funeral Mass after having met with the circumstances outlined by our inquirer. In such a case postponement

of the funeral would be difficult. The resident priest could have the absolution and burial services and on the following day offer the Exequial Mass.

BEATIFICATION OF PIUS X

Question: Recently Pope Pius X was beatified. Are there any restrictions about offering Mass in his honor or erecting a statue in church for the veneration of the faithful?

Answer: In Canon Law we read that beatification does not entitle one to the same honors as canonization. There is no difference in kind between the *cultus* shown toward a beatified and a canonized saint; it is rather one of degree and one that is restricted to certain acts and certain places. As to what is permitted in the *cultus* of a beatified person, such as Pope Pius X, the particular indult authorizing devotion to him would have to be searched. "The Holy See may grant to a *beatus* in a particular place all the privileges which are usually given to a canonized saint, e.g., the dedication of an altar, and the placing of a statue above it."

PURIFYING THE PATEN

Question: When I am binating on Sunday after having distributed Holy Communion do I purify the communion plate in the chalice even when the chalice is being used for the second Mass and remains unpurified?

Answer: We are instructed by rubricians always to purify the communion plate in the chalice and not in the ciborium. The fact that we are binating should not in any way change this procedure of doing things.

ALTAR SOCIETY

Question: Will you kindly tell me the advantages of belonging to the Altar Society, indulgences, etc.? Our Altar Society president desires this information so she can get new members and make the old members more satisfied.

Answer: We know of no special privileges, such as indulgences, which are granted to members of the Altar Society. The fact that these members are so closely allied to the Holy Sacrifice of the

Mass and everything that pertains to it should in itself have a great appeal since this privilege is not granted to each and every member of the parish.

POSITION OF HANDS AT MASS

Question: Is it permissible when offering Holy Mass to face the open hands or palms of the hands toward the altar? I have noticed some priests doing this recently and wondered if I was in error.

Answer: The Rubrics of the Missal specifically state, and these same thoughts are emphasized by the various rubricists, the hands must not extend beyond height or width of the shoulders. Furthermore, we read that the palms of the hands face each other, the fingers remain together and the elbows close to the body.

ALL SOULS' DAY INDULGENCE

Question: On all Souls' Day we are able to gain an indulgence for each visit we make to a church. We are asked to pray for the intention of our Holy Father. There seems to be great confusion as to just what constitutes the prayer for the intention of the Holy Father. Please solve our problem.

Answer: To satisfy the condition of praying for the intention of the Holy Father, it is necessary *ordinarily* to recite once the Our Father, the Hail Mary and the Glory be to the Father. Any other prayer may be recited for the Holy Father.

On All Souls' Day we can gain the *toties-quoties* indulgence and in that instance when we are requested to pray for the intention of the Holy Father we must specifically recite the Our Father, Hail Mary and Glory be to the Father six times. We are not allowed to substitute any other prayer for the Holy Father.

WALTER J. SCHMITZ, S.S.

THE NEW CONTRACEPTIVE CHEMICAL

Question: What should we tell those who question us about the morality of the "new birth control chemical"? Many persons (in-

cluding some Catholics) have the idea that the use of this chemical would not be opposed to Catholic moral principles, inasmuch as it does not involve any bodily mutilation and does not require any perversion of the sexual act or the use of any contraceptives in the exercise of conjugal relations.

Answer: To those who inquire about the morality of the "new birth control chemical," preceptin gel—which, according to a report made to the New York Academy of Sciences, appears to be 98.2 per cent effective in rendering a woman sterile for a period up to about a month (*Washington Post,* Oct. 21, 1951)—we can answer that according to the teaching of the Catholic Church *any* positive means employed for the direct purpose of rendering a person sterile and of thus frustrating the primary effect of conjugal relations is forbidden by God's law. It matters not whether it is a sterilizing operation or medication used before coition, or a contraceptive action or device used at the time of coition, or a means of removing the seed from its proper place used after coition; it matters not whether its sterilizing effect is temporary or permanent. In any event, it is a violation of the natural law, and every instance of its use or application is a mortal sin.

THE USE OF "RHYTHM"

Question: Does the recent pronouncement of Pope Pius XII in regard to periodic continence, or the "Rhythm," clarify in any respects the teachings of theologians on this matter?

Answer: Doubtless the questioner is referring to the lengthy instruction delivered by the Holy Father to the delegates of the Italian Catholic Union of Midwives at a Congress of this organization, held in Rome on Oct. 9, 1951. In this pronouncement the Pope discusses various moral problems connected with the professional activities of midwives, including the use of periodic continence—the "Rhythm," as it is commonly known in America—for the purpose of avoiding conception. This means that a married couple make use of their conjugal rights on those days of the menstrual cycle when conception is least likely to occur, and abstain on the "fertile days" which are about midway between menstruations. In discussing the effect that the intention of a person entering marriage would have on the validity of the contract, the Pope

repeats the commonly accepted theological doctrine, with its important distinction between the conjugal *right* and the *use* of that right. He says: "If at the time of the marriage at least one of the couple intended to restrict the marriage right, not merely its use, to the sterile periods, in such way that at other times the second party would not even have the right to demand the act, this would imply an essential defect in the consent to marriage, which would carry with it invalidity of the marriage itself." It is practical to add that if a couple entered marriage with the intention of practicing "Rhythm" and subsequently sought a declaration of nullity on this ground, such a declaration would not be granted unless they could prove with certainty that their intention (or the intention of one of them) included a limitation of the marital *right,* rather than of the mere *use* of that right, since the presumption would always be in favor of this latter form of qualification.

However, in regard to the lawfulness of the use of "Rhythm" the Holy Father makes a statement that has great value in connection with a controversy which has been carried on for a considerable length of time between two schools of theological thought. The stricter view has been expounded and defended by Fr. N. O. Griese, of Green Bay, Wis., in his doctoral dissertation *The Morality of Periodic Continence* (Washington, D. C.: The Catholic University of America Press, 1943). Fr. Griese believes that the practice of "Rhythm" is *per se* illicit—and by *per se* is meant "taken objectively, without any justifying reasons"—but *per accidens* it can become licit, when there are serious reasons for practicing it. For, he argues, there is *per se* an obligation on married couples to ordain their marriage relations toward the procreation of offspring if they make use of these relations. "The precept of the natural law which is here involved is this: that married couples must ordain their marital life, at least implicitly, to the realization of the hierarchy of ends in marriage as established by God. An objective view of the practice of periodic continence as such reveals that it involves the implicit, but positive exclusion of the primary end of that hierarchy" (p. 44). Moreover, Fr. Griese believes that the continuous practice of "Rhythm" would *per se* be a mortal sin if it is kept up "for more than a few years without any valid, objective reason" (p. 56).

The more lenient opinion was upheld by Fr. Hugh O'Connell,

C.SS.R., in *The American Ecclesiastical Review* for November, 1948, pp. 336 ff. He believes that the practice of "Rhythm" is *per se* licit, though *per accidens* it can become illicit, because of the circumstances of the intention of these who practice it. He asserts that "the law of fecundity obliges only the race in general. It does not oblige any individual couples, apart from special circumstances, even those who make use of marriage during the sterile times" (p. 339). Certain circumstances would make the use of "Rhythm" gravely sinful, such as the danger of incontinence or of divorce. (On this point, all theologians would agree.) But, apart from such circumstances, Fr. O'Connell believes, the use of "Rhythm" without any sufficient reasons, but merely for selfish motives, would constitute only venial sin (p. 345).

The recent pronouncement of the Holy Father undoubtedly favors the former view. The ideas expressed by Fr. Griese—that there is an obligation *per se* binding individual married couples (and not merely the human race in common) to have children, if they make use of their conjugal rights, and that only *per accidens* (when there are serious reasons for not having children) may they employ periodic continence—are fully in accord with the statements of the Sovereign Pontiff: "Marriage obliges to a state of life which, while conferring certain rights also imposes the fulfillment of a positive work in regard to the married state itself. In such a case one can apply the general principle that a positive fulfillment may be omitted when serious reasons, independent from the good will of those obliged by it, show that this action is not opportune, or prove that a similar demand cannot reasonably be made of human nature. The marriage contract which confers upon husband and wife the right to satisfy the inclinations of nature sets them up in a certain state of life, the married state. But upon couples who perform the act peculiar to their state nature and the Creator impose the function of helping the conservation of the human race."

The Pope does not explain in detail the particular nature of the reasons that suffice to justify the use of "Rhythm" but he says that they must be *serious* reasons. Neither does he explicitly state that this practice can *per se* constitute a mortal sin, but it is difficult to interpret in any other way his words: "To embrace the married state, continuously to make use of the faculty proper to

it and lawful in it alone, and on the other hand to withdraw always and deliberately with no serious reasons from its primary obligation would be a sin against the very meaning of conjugal life." A sin "against the very meaning of conjugal life" could hardly be understood as merely a venial sin, however long it might be practiced.

In view of this papal pronouncement, it would seem that a confessor would be acting prudently if he would regard as a mortal sin the practice of "Rhythm" without any serious reasons to justify it, when it is kept up for a long period of time—for example, more than five years.

FRANCIS J. CONNELL, C.SS.R.

BISHOP CHATARD ON MARY, THE PATRONESS OF THE UNITED STATES

The life of every saint is a gift God makes to the world to draw men to Him, and to stimulate them to ways of virtue. We in America, being young as a people, with institutions not perfect certainly in every respect, but which are so favorable to the development of the best qualities of men in every position, where human nature, under healthy influence of true freedom, is full of promise, which we pray may, under the fostering care of God and His Church, be realized in its budding forth and bearing flowers and fruits acceptable to God; we, I say, may be pardoned for looking on ourselves as a providential people, of the foremost, destined to show, as perhaps none other has done, what Christian civilization and Christian liberty can do with man. To effect this, however, a high ideal must be reached, and the ideal of the highest life of virtue we have in her to whom we are bid direct our eyes as to our model and patroness—in Mary Immaculate, Mother of God.

—From Bishop Chatard's sermon to the Third Plenary Council of Baltimore.

Book Reviews

THE LIFE OF BARON VON HÜGEL. By Michael De La Bedoyere. London: J. M. Dent & Sons Ltd., 1951. Pp. 356.

It is a tribute to Baron Von Hügel's strange mysticism that he did not die completely disillusioned, for he found himself, in his last years, a man almost completely alone, distrusted by the associates with whom he had collaborated, and regarded with deep suspicion by the Catholics within the Church he had wished to reform. In following his own peculiar light he left strewn behind him a series of words and actions so inconsistent that Loisy privately ridiculed his powers of logic, and Maude Petre suspected his courage, while from the Catholic side no attempt has ever been made to justify his activities according to the generally accepted norms of Catholic life and thought. De la Bedoyere's book does little to satisfy the logical searchings of either side, "but seeks rather to re-create the living man, as he grew up within his family, with his friends; as he struggled for liberty of thought and action within the law he so deeply loved" (p. xii).

Such an approach can satisfy a certain thirst for information. The bibliographical material pertaining to the historical situation with which this "Life" deals is still very limited, especially in English language publications. It cannot, however, satisfy the demand for a critical appraisal of the man's fundamental Catholicism, and any book about Von Hügel must ultimately come to grips with that question.

Was Baron Von Hügel a Modernist? Before the publication of this biography many rather mature judgments, by informed Catholics and non-Catholics, were in general circulation. Before the "Rinnovamento" was proscribed in Italy Cardinal Steinhuber had written to Cardinal Ferrari that the publication was "notoirement opposée à l'esprit et l'enseignement catholiques." One of the proofs he gave was the collaboration of writers such as "Fogazzaro, Tyrrell, Von Hügel, Murri, et d'autres." De la Bedoyere contests the soundless of this judgment since, he says, it was based on the mistaken notion that Von Hügel had written an article with which he actually had nothing to do. It is nevertheless clear even for De la Bedoyere that Von Hügel was definitely a collaborator in the publication of "Rinnovamento." Rivière, in his "Le Modernisme dans l'Eglise," considered Von Hügel a Modernist, and indeed labelled him the "Chef d'état-major qui dirige les operations." This was true, in Rivière's opinion even after the issuance of *Pascendi* ("*Le Modernisme* . . ." p. 398). E. I. Watkin, who has

since written a generally favorable review of the present volume, wrote that "Von Hügel was . . . thoroughly Modernist as regards (1) the Biblical and critical aspect, absolutely anti-Modernist as regards (2) immanentism, which denied a transcendental God" (Maisie Ward, *Insurrection vs. Resurrection* (p. 500). Even Sabatier, careful to preserve for himself the name "Pope of Modernism," conferred on Von Hügel the title "Bishop of Modernism." Maude Petre wrote, "Le fait qu'il ne fut jamais ouvertement condamné constitue une de ces énigmes dont l'histoire ne nous a pas encore fourni la réponse" (*Congres de l'histoire du Christianisme,* III, 228). The English Abbot Butler would answer this enigma by saying that his writings were never condemned because "they are on matters not read by, scarcely accessible to, the large numbers who have been helped greatly in their religious life by his works on God, Mysticism and the soul" (Maisie Ward, *ibid.*, pp. 508 ff.).

Up to the present time Von Hügel's activities have been either treated in connection with the general movement of Modernism, or seen in the light of personal memoirs and biographies, like the *Memoirs* of Loisy, the *Life and Autobiography of George Tyrrell,* or the reminiscences of Maude Petre. Here for the first time we have a large volume dealing with Modernism from the vantage point of the man himself. A book like De la Bedoyere's should help clarify the picture of the man enough to confirm such judgments, related above, or to cast serious doubts on their soundness. To what extent he does either will be the subject of the present review.

First of all Von Hügel "missed regular schooling and never enjoyed any university training. He was therefore self-educated, with the help of tutors, into the scholar's world. If he became, as Doctor Gore of Oxford, declared, 'the most learned man living,' it was certainly by following his own path, almost inevitably a highly individualistic one" (p. 15). Because of his aristocratic background and Catholic faith he quite naturally moved about with ease in what De la Bedoyere calls "the highest Catholic Church society." In his early thirties, his interests brought him into contact with such continental figures as Ollé-Laprune, Père Mercier, Montalembert, De Mun, D'Hulst, Abbé Hogan, Huvelin and Duchesne. The latter two exercised a profound influence over him. Huvelin acted as his spiritual director, and in the course of his conversations told Von Hügel that "the scholastics seemed to possess a language for the initiated only. They do not understand that life, all life, escapes analysis. They are dissecting dead bodies." Ordinary apologetics are worthless, he contended. "Sometimes they are ingenious, but always false." Huvelin warned him to "look for truth, and not mere orthodoxy," for "orthodoxy has to come to terms with truth; that is

its business." It was, indeed, from Huvelin that Von Hügel received that phrase he was to use later in a letter to Wilfrid Ward. Said Huvelin, "Truth for you is a luminous point which loses itself, little by little, in the darkness." Von Hügel credited Huvelin with helping him "to keep his faith and his reason during those terrible years of 1906-1914."

Duchesne, on the other hand, was the influence that determined him to pursue the critical study of the historical basis of the Catholic religion. Duchesne did not scruple to ridicule the intelligence of the highest ecclesiastical authorities in France. "Among the red and violet soutanes there are only, with the exception of Lavigérie, the souls of sacristans."

In the 1890's Von Hügel came under the strong influence of the Abbé Alfred Loisy. To understand that influence De la Bedoyere sketches the contemporary intellectual climate among many Catholic intellectuals. There was widespread conviction that the scholastic tradition was incompetent to meet the developing thought of the world, and guide it along Christian ways. "This feeling was especially strong among lay Catholic philosophers, such as Ollé-Laprune" and "above all the young and brilliant Maurice Blondel, whose book *L'Action* created somewhat of a sensation." Clearer than *L'Action* was Blondel's *Lettre sur les exigences contemporaines* . . . published in the *Annales de philosophie chrétienne,* which, according to De la Bedoyere, roundly attacked the impotence of Catholic science . . . and still more the type of Seminary philosophy on which was supposed to rest the whole of the Christian outlook and apologetic." "The trend of the times lay in far more subtle analysis of the motives of human action, of the nature of the human being, of will and experience in knowledge, than the old rationalism, whether of the classical nineteenth century, or its inverse, Catholic science and philosophy, could fit into its antiquated terms and concepts."

It is, of course, necessary in judging such ideas, to remember the exact state of philosophy within the Church during this era, and that the revival of the philosophy of St. Thomas under Pope Leo XIII was a real revival, in the sense that it attempted, and was attempting to bring something back to life. It is also true to say that the rapid development of the sciences presented some definite and concrete problems to the contemporary philosopher and theologian.

Von Hügel was profoundly influenced by that type of "anti-rationalism" or "immanentism" of which Blondel was the Catholic prophet (p. 68). It fitted into his insistence on subjective truthfulness, and into his scientific mood. The scientific mood brought him

into contact with the Biblical question, and from this developed his friendship with Loisy, who was to be his "guide and master."

Thus we come to one of the most interesting phases of De la Bedoyere's book, the Von Hügel and Loisy relationship, and the problems to which it gave rise. The best picture of Loisy, of course, comes from his own *Memoires*, although Fr. Jean Levie's *Dans les yeux de l'incroyant* gives a good short account of his life and shortcomings. Loisy was the type of man who aspired at an early age to become one of the Fathers of the Church, or at least a Doctor, only to end as one of the prophets of a purely humanistic religion. It was his *Histoire du canon de l'ancien testament* that brought him to Von Hügel's attention. Even at this time (the 1890's) Loisy was no longer truly Catholic. He says himself "les sorts sont jetés dès 1886."

The story of Loisy's defection, his initial brushes with authority, the condemnation of his major writings, his final excommunication—all these events coincide with Von Hügel's greatest activity in the cause of Modernism. He conceived himself to be fighting against ignorance, obscurantism, and even downright malevolence within the Church. The focal point of Loisy's long story is the publication in 1902 of *L'évangile et l'église*. A book written to refute Harnack, in reality it did so only in destroying the doctrinal structure of the Church. According to De la Bedoyere the book was praised by many Catholics "absolutely or with reservations." He does not mention, however, that Père Lagrange has written that he realized as soon as he read the book that Loisy was no longer a believer (*M. Loisy et le modernisme*, p. 123). Nevertheless this book, condemned by Cardinal Richard of Paris in January, 1903, and later by Rome, received Von Hügel's unstinted praise. To Loisy he wrote, "Never have you done anything better, more beautiful, more fitted to find its place sooner or later, more or less, in that modification of the way of presenting and conceiving Catholicism . . ." (p. 144; quoted from the *Memoires*, I, 337). "Von Hügel had no hesitation in putting into operation for it his publicity machine" (p. 147). Maisie Ward, indeed, says that "Loisy's gaining Catholic support for *L'évangile et l'église* must be largely attributed to Von Hügel. Almost all the favorable reviews that appeared in England were arranged by him, both in Catholic and non-Catholic papers" (*Insurr. vs. Resurr.*, p. 492).

In extenuation De la Bedoyere says that Von Hügel "did not for a moment suspect his friend's actual disbelief in the fundamental dogmas of Christianity" (p. 145). It is nevertheless true that Von Hügel agreed with Loisy's main thesis, that what Christ designed was the Kingdom of God, whereas what actually came was the Church. It is also true that some of the "narrower" ecclesiastics, as they are de-

scribed, saw through Loisy's design even though the immensely erudite Von Hügel did not. De la Bedoyere's judgment that one "must at times deplore the severities of the authorities [toward Loisy] in the face of the little they knew of him" (p. 73), takes on an extraordinarily ironical note in view of Loisy's own *Memoires*, and in view of the action so quickly taken by Cardinal Richard, and the "narrow, peasant Pius" (p. 151), as De la Bedoyere describes him. One cannot, furthermore, help being amused at the picture of Von Hügel's wife remonstrating personally with the Pope for his persecution of Loisy. In view of Von Hügel's defective judgment it is somewhat annoying to reflect on his condescension in regard to Pius the Tenth. "I must admit," he said in a letter, "that, even now and in spite of everything, I have a feeling as to the pathetic position of the Pope . . . a peasant of simple training and speaking to some 200 million souls, of whom doubtless a good nine-tenths, at least, are even less cultivated than himself."

It is true that in later life Von Hügel was distressed by Loisy's agnosticism, but even when this fact was patent to him he never seems to have said with the humility of Père Lagrange, who confesses of his early opinion of Loisy, "Oui, j'ai été dupe, je l'avoue, et sans doute je n'étais pas le seul."

Von Hügel's relationship with George Tyrrell was also very intimate. He not only directed Tyrrell in his first introduction to Criticism, but acted as the liaison officer between Tyrrell and Loisy, as indeed he did between almost all the major figures of the movement. When Tyrrell wrote his bitter letter to the *Times* after the publication of *Lamentabili* and *Pascendi* he was commended by Von Hügel, and after Tyrrell's excommunication he counseled him "not to submit unconditionally, but to send an expression of regret, of retraction and of promise of non repetition, of such expressions, such a tone, or temper, such directly anti-Pope's person passages as . . . have pained and scandalized souls." It is clear that Von Hügel was becoming pained by Tyrrell's conduct, but for dubious reasons. It was also Von Hügel who collaborated with Maude Petre in sending the famous letter to the *Times* immediately following Tyrrell's death, and which eventuated in refusal of Church burial.

Through the whole period Von Hügel was busily writing to all parts of the Continent, and made frequent visits to Rome to influence authorities toward adopting "broader" attitudes. He had entrée into many high places, and succeeded for a time in allaying fears. With the passing of time, however, it was obvious to a man like Wilfrid Ward that trust in his judgment began to diminish. It is curious to note, along the way, that Von Hügel felt rather optimistic about Cardinal Satolli

who, he said, "was turning out to be an open minded man on Scripture matters," although he later felt Satolli was "too much a scholastic to assimilate or even only grasp what the historical method was." This was the same Cardinal Satolli who showed such sympathy with Msgr. Mercier's difficulties at Louvain, but who was the "bête noir" of Abbé Klein and some of the more liberal American Bishops during the "Americanism" affair (cf. Abbé Felix Klein, *Une hérésie fantôme.*)

During the discussions on Anglican Orders, De la Bedoyere says, Von Hügel participated in discussions with Loisy and Duchesne. "The outcome of these discussions was a plan to use the Anglican business as a lever for favorably approaching the highest authorities in Rome on the Biblical question" (p. 82). This type of planning makes De la Bedoyere's strictures on Msgr. Benigni's judgment seem somewhat overdrawn. Msgr. Benigni claimed to have discovered "a kind of international and conspiratorial secret society of Modernists the cause of all the Church's ills in every department of life, social and poiltical as well as doctrinal." De la Bedoyere's account continues, "This kind of exaggeration would hardly fit any actual conspiracy, but in fact, whatever else might be said about the Modernists, any suggestion of conspiracy or organized movement was totally unfounded" (p. 193). Yet on p. 196 he records that after the Decree *Lamentabili* a group of men met in South Tyrol to discuss the matter. This group included Fogazzaro, Scotti, Murri, Bonajuti and others. Writing to Loisy, Von Hügel summed up what he had told his friends. "He called on them to pray and struggle, serenely, without allowing, through the sharp crisis, any distinctions between him and his fellows on trial. Their strength lay in their apparent weakness, in the absence of any plotting, any organization, any preconceived views. Their unity lay in a general orientation, despite their differences of detail. It would be easy to say that an attack on A did not touch B, but nothing would be more serious or blind than that" (p. 197). Now to some persons such a meeting, and such a program, especially after the issuance of *Lamentabili*, may not appear to represent planning and organization, but it can hardly be passed off as a mere accidental affair in which everyone present promised to follow only his own spontaneous promptings.

As time went on, however, Von Hügel became somewhat sensitive of exposing himself too openly to the possibility of outright censure. It is also true that he began to react strongly against Loisy's immanentism and agnosticism. After the death of Tyrrell his relations with Maude Petre became strained, and he became critical of the fact that scepticism was beginning to claim what remained of the Modernists and their propaganda organs. His repudiation of immanentism, in that sense which excluded all transcendence, was complete, but his

scriptural conclusions, so strongly influenced by Loisy's, cannot be proved ever to have changed.

It is one of the shortcomings of the *Life of Baron Von Hügel* that De la Bedoyere never attempts to explain the relationships which existed between Von Hügel's eclectic philosophy and the scriptural conclusions he arrived at. That such relationships must have existed is self-evident, for no living mind can compartmentalize its knowledge into air-tight chambers. How many of his scriptural positions, many of them admittedly untenable, were influenced by his philosophy, and his general lack of enthusiasm for the miraculous? Then again, how did biblical questions influence his philosophy? The answers to such questions would have been of real and lasting value, and it is exactly such an approach that makes Père M. J. Lagrange's *M. Loisy et le modernisme* a valuable and constructive work for students.

Aside from not discussing the relationship between philosophy and scripture, De la Bedoyere does not devote sufficient space to the Baron's scripture work in general, and it is in this field that he is regarded almost unanimously as heterodox. As Wilfrid Ward said, "With Von Hügel it seemed to me that theorizing on the Bible in the most daring and drastic form was the primary object of his enthusiasm." It will also be interesting to quote the opinion of a contemporary scripture specialist, Fr. Humphrey J. F. Johnson, who wrote in the *Tablet* (London): "There is so much that is winning in the personality of Friedrich von Hügel that it is difficult not to feel sympathy with those who are seeking to rehabilitate him as an orthodox Catholic thinker. But such rehabilitation cannot be secured by ignoring awkward facts. Your reviewer [E. I. Watkin] quotes with approval a judgment of the Baron's biographer to the effect that he was never a Modernist in the heretical sense. But surely such a statement needs some qualification in view of his pleas, made in the 'Rinnovamento,' for the reinterpretation of the dogmas of the Resurrection and the Virgin Birth. Again, your reviewer seems to miss the significance of Von Hügel's view of the Johannine question. Of greater importance than his rejection of the apostolic authorship of the fourth Gospel is his disbelief in its historical character. Though arguments for the divinity of Christ can be drawn from other books of the New Testament, those taken from the Gospel of St. John are admitted by believers and unbelievers alike to be the most impressive, and very few must be the thinkers or divines who rejecting these proofs yet adhere to the Chalcedonian doctrine of the Incarnation. Von Hügel indeed admits that the Council of Chalcedon in its decree on the two natures in Christ 'stammered out a nucleus of truth,' yet his portrait of the 'authentic Jesus' with his weaknesses, obscurities and errors is surely that of one whom few

could worship as divine. The tendency to minimize Von Hügel's modernism has been apparent for years."

It is also extremely difficult to reconcile Von Hügel's attitude toward authority with the true Catholic spirit. He seemed to claim the right for any Catholic intellectual to maintain an opinion honestly arrived at. Honesty and integrity are indeed virtues, but they are no assurance against error, and the admission of such a principle would, of course, have destroyed Catholicism long before the appearance of a Baron Von Hügel.

Was the Baron a Modernist? Even De la Bedoyere fails to give a clear-cut answer. He died within the Church, and was never the object of a direct censure from Rome. Nevertheless it cannot fail to appear, even to the sympathetic reader of the present volume, that his activities and writings place him within that category. If there be added to the information provided by this *Life* the contents of his scriptural writings the answer would seem to be quite conclusive.

It has been said that Baron Von Hügel had a very constructive influence on many people, and that he was a very attractive personality. De la Bedoyere's *Life* has evidently been written to convey some idea of that attractiveness. It is, however, entirely possible that the revelation of a Von Hügel who was haughty, self-assured, and extraordinarily sensitive to criticism and contradiction may spoil even that impression.

PAUL E. MCKEEVER

THE NATURE OF LAW. By Thomas E. Davitt, S.J. St. Louis, Mo.: B. Herder Book Co., 1951. Pp. 274. $4.00.

This book, timely in every respect, is principally a lengthy review of the two opinions relative to the nature of law.

The views of several proponents of each of these opinions are examined. The development of these views is traced and their appreciation is determined. Adequate consideration is given. St. Thomas, for example, may be considered as the writer who placed the nature of law primarily in the intellectual faculty while Suarez may be taken as considering this nature more properly placed in the faculty of will.

The author in his contribution to the controversy concerning the nature of law offers a comparison between the conflicting opinions and is in favor of the intellectualist view.

One of the important points in this controversy is the existence of purely penal laws. The author demonstrates that in the view of St. Thomas and his adherents such a law is impossible. On the other hand the followers of Suarez can consistently maintain the existence of such

a law. This book, of course, will not settle the controversy but it should illuminate the inconsistency of some Thomists in admitting purely penal laws.

Several points about this book should be stressed. First, the presentation of the problem of purely penal laws is a clear exposition. Secondly, the footnotes as references are adequate. While, as the author admits, few textual citations are found, complete indications are given where these texts may be seen. Perhaps a few more texts in the footnotes would be desirable since the student and reader may not have all the necessary texts at hand. Thirdly, there is an excellent, even if brief, appreciation of *De legibus* of Suarez and a plea for similarly complete study of the philosophy of law of St. Thomas.

To the reviewer, the best result of the reading of this book will be a hopeful check to the mad rush to consider most civil law as purely penal legislation. The remark made above on the inconsistency of some Thomists may mobilize attention on the part of those who should find an obligation in conscience where civil law is concerned.

The bibliography of sources and works of reference is reasonably complete and is certainly adequate for immediate use. The index is satisfactory. This book is highly recommended.

EDWARD ROELKER

THE CASE OF THERESE NEUMANN. By Hilda C. Graef. Westminster, Md.: The Newman Press, 1951. Pp. xix + 162. $2.50.

For over a quarter of a century the case of Therese Neumann has been a matter of interest, discussion, and controversy. The unusual phenomena that have been part of her career since early in 1918 have been the subject of an extensive literature in German and other languages. The present writer is familiar with only a small part of this literature, but the opinion is ventured that it is largely favorable to Therese Neumann. By her supporters the strange things that have had a place in her life are considered to be authentically supernatural in origin and character, and she herself is held to be a completely reliable witness and a genuine mystic of a high order. Miss Graef's book may be described as a dissenting opinion.

The author's final conclusion is moderate and prudent. She writes: "To sum up our findings: a supernatural origin of the phenomena exhibited by Therese Neumann is not *necessarily* demanded by the evidence at our disposal which, admittedly, is not as complete, in many respects, as one might desire. Rather must we affirm at this point that the greatest caution and circumspection ought to be exercised by any-

one who approaches this case with the intention of a serious investigation; for even if the stigmata and the other events be not considered mystical but charismatic gifts, the fact that they have appeared in connection with illnesses certified by the examining doctors as hysterical in nature and do not correspond with similar experiences in the history of the Church's saints would still justify a reasonable doubt" (p. 152).

It is difficult to quarrel with this conclusion. It is both the teaching and the practice of the Church to exercise the utmost prudence and to demand the clearest evidence in instances of allegedly mystical phenomena. Hence in a case as widely known as that of Therese Neumann it is most important to establish the whole truth. It is beyond question that every effort should be made by her friends and admirers, and above all by herself and her parents, to assist the authorities of the Church in authenticating anything about her that can be doubted in any just way. In this work of establishing the full and exact character of whatever has taken place no limit can be set to the co-operation that all members of the Konnersreuth circle should give. There is much to be gained and nothing of value to be lost by having a completely independent and entirely objective investigation of this famous case. Gamaliel's words to the Sanhedrin are applicable to Konnersreuth. "For if this plan or work is of men, it will be overthrown; but if it is of God, you will not be able to overthrow it."

Assuredly, to live without food and drink is an extraordinary thing, as are the presence of the stigmata and the bleeding that accompanies Therese Neumann's trances. But if the reports of certain things in her life impress the reader, the reports of certain other things do not put her in a favorable light. It is not easy to dismiss the judgment that her temporary blindness and certain other illnesses were hysterical in cause and character. The account of the investigations conducted in 1927 and 1928 does not leave the reader satisfied or edified. Some of Therese's statements as quoted here (e.g., pp. 46 f.; 96; and 132 f.) are laughable. On others (cf. pp. 68 ff.; 75-79; and 134) so mild a judgment cannot be passed.

Miss Graef has performed an important service in gathering this material on Konnersreuth and presenting it to the English-reading world. She is not a Herbert Thurston—he should be living at this hour—and there are certain defects of method in her work. It is regrettable that the account of her visit to Konnersreuth and her meetings with Therese Neumann, which was written for this work and has been published in *The Josephinum Review* for Aug. 1, 1951, was not included in the book. But all in all, hers is an unambiguous, well-ordered, and

well-documented account of Konnersreuth. It is said "of Konnersreuth" rather than simply "of Therese Neumann," for an acceptable picture of this case must include such figures as Fr. Naber, the parish priest, and certain others in the Konnersreuth circle, including Therese's father. Moreover, the book contains a great deal of valuable material on mystical phenomena that would otherwise be unavailable to the general reader.

The Catholic religion has no dependence on such things as are recounted in the various reports from Konnersreuth. Even if they are all that the most fervid supporters of Therese Neumann claim them to be, it may be questioned whether it is good to put any great store by them until the Church has made an official pronouncement in their favor. If they are merely natural in origin and character, to misinterpret them can be the occasion of injury to religion. In the case of Konnersreuth, perhaps even more than in the case of Lipa and Necedah, adherence to the Church's scale of values and an attitude of reserve are in order.

JOHN K. RYAN

SPIRITUAL CONFERENCES FOR RELIGIOUS BASED ON THE FRANCISCAN IDEAL. By Theodosius Foley, O.F.M.Cap. Milwaukee: The Bruce Publishing Co., 1951. Pp. 350. $5.00.

In this treatise on Franciscan spirituality Father Theodosius (who died within the recent past) has given his readers the fruit of his long experience as superior, provincial, and retreat master. He declares in the preface that his purpose "is to offer a modest contribution to Franciscan literature, so much needed in our land and time." And in this aim he has succeeded admirably.

Originally the seventy conferences were a series of monthly letters and Lenten pastorals sent to each community during his two terms as provincial. Then they were adapted to serve the needs and interests of all members of the Franciscan family. They form a valuable and instructive volume of the ever increasing list of Franciscana in the English language.

The subjects chosen include the virtues, the vows, perfection; and then there are few most necessary but infrequently treated matters; personal responsibility, the religious superiorate, Franciscan reverence, the Blessed Sacrament as the model of the active life etc. All in all

every follower of the Poverello of Assisi, friar, brother, and sister, can draw much from the mature, sincere, and partical reflections of the author. There are some points peculiar to the Capuchins themselves, such as genuflecting on entering or leaving the cell of the superior (p. 85) that do not apply to all religious or Franciscans, but they certainly do not mar the general character and seraphic message of the book.

All who follow St. Francis of Assisi either by affiliation or affection will welcome this treasury of spirituality. Nor will the book be limited only to members of the Franciscan family. The lucid and practical explanations and applications of the principles of the spiritual life will prove of immeasurable assistance in following the Christ of the gospels more completely, in loving Him more ardently, and in imitating Him more generously. The volume, done in the usual clean-cut style by Bruce of Milwaukee, is a grand addition to two other works recently published by Father Theodosius, *Religious Life in Christ*, and *In the Spirit of St. Francis*.

TITUS CRANNY, S.A.

DE CORREDEMPTIONE BEATAE VIRGINIS MARIAE. DISQUISITIO POSITIVA. By Juniper B. Carol, O.F.M. St. Bonaventure, New York: Franciscan Institute Publications, Theology Series n. 1. Pp. 643. $4.00.

It is the firm belief of this reviewer that this volume by Fr. Carol is the most important single contribution to the literature of sacred theology ever made by an American writer. It stands with the great Latin series on the Sacraments, now being brought towards completion by Dr. Doronzo, O.M.I., of the Catholic University staff, as unquestionable evidence of the vigorous maturity of theological teaching in our American schools.

Fr. Carol's study is certainly the most adequate and scientific consideration of Our Lady's title and prerogative as Coredemptrix which has yet appeared. An opening chapter describes and explains what the author considers to be the "proximate foundation" of the doctrine in question, the *principium retroversionis-consortii*. As Fr. Carol tells us (p. 59), "the principle of retroversion, in the specific sense in which we look at it here and now, is that law, established by the positive order of the all-wise God, according to which the entire process of